

NAME Anthony Morrison

PRISON NUMBER C-60307

CURRENT ADDRESS OR PLACE OF CONFINEMENT Correctional Training Facility
Y Wing, Cell#1120

CITY, STATE, ZIP CODE Soledad, CA 93960

FILED

JUN - 4 2008	
CLERK, U.S. DISTRICT COURT	
SOUTHERN DISTRICT OF CALIFORNIA	
BY KM	

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

2254	✓	1983
FILING FEE PAID		✓
Yes	No	✓
HPP MOTION FILED		✓
Yes	No	✓
COPIES SENT TO		✓
Court	Pro Se	✓

ANTHONY MORRISON,
(FULL NAME OF PETITIONER)**PETITIONER**

v.

BEN CURRY, Warden, et al.,

(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER (E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS))

RESPONDENT
and

The Attorney General of the State of California, Additional Respondent.

Civil No. '08 CV 0999 WQH JMA

(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUSUNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack:
Superior Court of the State of California, County of San Bernardino
2. Date of judgment of conviction: January 4, 1983
3. Trial court case number of the judgment of conviction being challenged: SBD CR 8103
4. Length of sentence: Two terms of 7 years-to-life with possibility of parole; to run consecutively: plus 4-year enhancement

5. Sentence start date and projected release date: January 26, 1983
6. Offense(s) for which you were convicted or pleaded guilty (all counts): kidnap for robbery, firearm, rape, oral copulation, and sodomy in concert
7. What was your plea? (CHECK ONE)
 - (a) Not guilty
 - (b) Guilty
 - (c) Nolo contendere
8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
 - (a) Jury
 - (b) Judge only
9. Did you testify at the trial?
 Yes
- DIRECT APPEAL**
10. Did you appeal from the judgment of conviction in the California Court of Appeal?
 Yes
11. If you appealed in the California Court of Appeal, answer the following:
 - (a) Result: affirmed
 - (b) Date of result, case number and citation, if known:
 - (c) Grounds raised on direct appeal:
12. If you sought further direct review of the decision on appeal by the California Supreme Court (e.g., a Petition for Review), please answer the following:
 - (a) Result:
 - (b) Date of result, case number and citation, if known:
 - (c) Grounds raised:

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:

- (a) Result:
- (b) Date of result, case number and citation, if known:
- (c) Grounds raised:

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?

Yes No

15. If your answer to #14 was "Yes," give the following information:

- (a) **California Superior Court** Case Number: SWHSS700203
- (b) Nature of proceeding: habeas corpus proceeding
- (c) Grounds raised: (1) Due Process; (2) Cruel and Unusual Punishment; (3) Equal Protection; (4) Abuse of Discretion; (5) Arbitrary and Capricious [determination]; (6) Ineffective Assistance of Counsel; and (7) Errors made by Lower Courts
- (d) Did you receive an evidentiary hearing on your petition, application or motion?
No
- (e) Result: petition denied
- (f) Date of result: August 13, 2007

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?

Yes

17. If your answer to #16 was "Yes," give the following information:

(a) California Court of Appeal Case Number: E044148

(b) Nature of proceeding: habeas corpus proceeding

(c) Grounds raised:
 (1) Due Process; (2) Cruel and Unusual Punishment; (3) Equal Protection; (4) Abuse of Discretion; (5) Arbitrary and Capricious [determination]; (6) IAC; and (7) Errors made by Lower Courts

(d) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes No

(e) Result: petition denied

(f) Date of result: October 3, 2007

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the California Supreme Court?

No

19. If your answer to #18 was "Yes," give the following information:

(a) California Supreme Court Case Number: S157597

(b) Nature of proceeding: habeas corpus proceeding

(c) Grounds raised: (1) Denial of Due Process (no evidence to support a decision denying parole); (2) Cruel and Unusual Punishment (for failure to set primary term proportionate and uniform to individual culpability); (3) Denial of Equal Protection (disparate treatment from those similarly situated); (4) Abuse of Discretion; (5) Arbitrary and Capricious findings at Parole Consideration hearing; (6) IAC at Parole Consideration hearing; (7) Superior Court Erred in its Findings of Fact and Law

(d) Did you receive an evidentiary hearing on your petition, application or motion?
 Yes No

(e) Result: petition denied

(f) Date of result: April 23, 2008

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds raised in this federal Petition, explain briefly why you did not:

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

Yes _____ (IF "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed?

(i) What was the prior case number? _____

(ii) Was the prior action (CHECK ONE):

Denied on the merits?

Dismissed for procedural reasons?

(iii) Date of decision: _____

(b) Were any of the issues in this current petition also raised in the prior federal petition?

Yes No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

Yes No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

20. If you did *not* file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the California Supreme Court, containing the grounds raised in this federal Petition, explain briefly why you did not:

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?

Yes No (IF "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed?

(i) What was the prior case number? _____

(ii) Was the prior action (CHECK ONE):

Denied on the merits?

Dismissed for procedural reasons?

(iii) Date of decision: _____

(b) Were any of the issues in this current petition also raised in the prior federal petition?

Yes No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?

Yes No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present *all* other grounds to the California Supreme Court before raising them in your federal Petition.
- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.
- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUND FOR RELIEF

22. State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground. If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE:** V AND XIV AMENDMENT VIOLATION: THE BOARD OF PAROLE HEARINGS DENIED PETITIONER OF DUE PROCESS OF LAW AT A PAROLE CONSIDERATION HEARING WHEN THE BOARD PANEL FOUND PETITIONER UNSUITABLE FOR PAROLE RELEASE WITHOUT SOME EVIDENCE TO SUPPORT THAT DECISION; FAILED TO SET HIS PRIMARY TERM CONSTITUTIONALLY PROPORTIONATE AND UNIFORM TO HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES, AND IN SETTING-OFF HIS HEARING FOR TWO YEARS **Supporting FACTS** (state *briefly* without citing cases or law)

The Board denied Petitioner a parole release date at the 2006 parole consideration hearing based on unchanging factors such as the commitment offenses; Petitioner's minor juvenile arrest record, institutional behavior; parole plans; information from the District Attorney and victim; responsibility for the offenses, and recent gains.

There was no evidence that Petitioner has a record of previous violence. Petitioner has only a minor juvenile arrest record of two arrests: one was theft related and the other was for indecent exposure--when Petitioner was a child. Petitioner has no prior record of violence or prior convictions or juvenile commitments. The Board's reliance on Petitioner's institutional behavior was not evidence that Petitioner is unsuitable for parole.

There was no evidence that Petitioner did not present employment plans. There is, however, evidence that Petitioner is a welder. And there is evidence that the Board acknowledged this fact. The opposition by the DA and a letter from the victim does not constitute evidence that Petitioner is unsuitable for parole. Unlike the Board's assertion--there is evidence that Petitioner accepted responsibility and understands the nature and magnitude of the offenses.

Did you raise **GROUND ONE** in the California Supreme Court?

Yes

(b) GROUND TWO: VIII AMENDMENT VIOLATION: THE BOARD OF PAROLE HEARINGS IMPOSED A CRUEL AND UNUSUAL PUNISHMENT WHEN THE BOARD PANEL FAILED TO SET PETITIONER'S PRIMARY TERM CONSTITUTIONALLY PROPORTIONATE AND UNIFORM TO HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES

Supporting FACTS (state briefly without citing cases or law):

Petitioner presented the Eight Amendment precept to the California Supreme Court to support this ground: "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." He further asserted that the 27 years of imprisonment served are excessive and disproportionate punishment by application of the In re Lynch; In re Foss and In re Rodriguez analysis.

The particular characteristics of Petitioner were detailed before the California Supreme Court. And that the particular characteristics of Petitioner at the time of the offenses does not justify 27 years of imprisonment. When he goes before the parole board in 2008, it will be 28 years he would have accumulated--without considering the fact that he is entitled to a reduction of sentence work-time/good-time credits. As aforementioned, Petitioner was only 17 years old at the time of the offenses. His conduct was explained in part, by his limited intelligence. Thus, it appears that neither the circumstances of his offense, nor his personal characteristics establish a danger to society to justify such a prolonged period of imprisonment.

Petitioner was sentenced to two 7-years-to-life sentences: other life prisoners sentenced to greater terms (i.e., 15-years-to-life and 25-years-to-life), with even more egregious offenses/circumstances, have been granted paroles: with some of the paroles being granted by the court. Petitioner has stated/presented a *prima facie* claim, that, when measured by the Lynch test, he is suffering cruel and unusual punishment by his continued period of confinement (considering he has exceeded his maximum 12-year primary term). Petitioner has already served a term which, by any of the Lynch criteria, is disproportionate to his offense.

Did you raise GROUND TWO in the California Supreme Court?

Yes

(c) **GROUND THREE:** XIV AMENDMENT VIOLATION: THE BOARD OF PAROLE HEARINGS DENIED PETITIONER OF THE EQUAL PROTECTION OF THE LAWS WHEN THE BOARD PANEL TREATED PETITIONER DIFFERENTLY FROM SIMILARLY SITUATED PRISONERS WITH THE SAME OFFENSES

Supporting FACTS (state *briefly* without citing cases or law):

Petitioner presented the Fourteenth Amendment precept the the California Supreme Court to support this ground: "No state shall ... deny to any person within its jurisdiction the equal protection of the laws."

The parole board did in fact, treat Petitioner differently from similarly situated prisoners when it failed to consider substantial evidence supporting Petitioner's suitability for parole release; failed to set a parole release date constitutionally proportionate to his individual culpability in the commitment offense; failed to release Petitioner on his primary term of 12 years; and on three separate occasions--failed to set-off Petitioner's next parole consideration hearing for only 1-year; and treated Petitioner differently from other similarly situated prisoners. Basically, Petitioner experienced denial of equal protection of the laws.

These errors made by the parole board resulted in prejudices to Petitioner. These errors infected Petitioner's entire hearing: and the errors were of constitutional dimension. Petitioner did not experience a fair hearing. The result would have been different absent the errors and if Petitioner was heard by a fair and impartial tribunal. The errors also manifest a fundamental miscarriage of justice.

Did you raise **GROUND THREE** in the California Supreme Court?

Yes No

(d) GROUND FOUR: VI AMENDMENT VIOLATION: APPOINTED COUNSEL DENIED PETITIONER OF THE EFFECTIVE ASSISTANCE OF COUNSEL AT THE PAROLE CONSIDERATION HEARING

Supporting FACTS (state *briefly* without citing cases or law):

Appointed counsel failed to conduct any form of an investigation in respect to legal research to familiarize herself with the applicable parole laws governing life prisoner's parole consideration hearings and parole release. She was ineffective by failing to investigate and present any mitigating evidence.

In addition, appointed counsel failed to object to the District Attorney's and victim's comments as evidence showing unsuitability. She failed to argue any legal principles at closing. She failed to raise any crucial assignments of error that arguably might have resulted in reversal.

Did you raise GROUND FOUR in the California Supreme Court?

Yes

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?

No

24. If your answer to #23 is "Yes," give the following information:

(a) Name of Court: _____

(b) Case Number: _____

(c) Date action filed: _____

(d) Nature of proceeding: _____

(e) Grounds raised:

(f) Did you receive an evidentiary hearing on your petition, application or motion?

Yes No

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing: Patricia Flores, Deputy Public Defender

(b) At arraignment and plea: (same)

(c) At trial: (same)

(d) At sentencing: (same)

(e) On appeal:

(f) In any post-conviction proceeding:

(g) On appeal from any adverse ruling in a post-conviction proceeding:

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes No

(a) If so, give name and location of court that imposed sentence to be served in the future:

(b) Give date and length of the future sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes No

28. Date you are mailing (or handing to a correctional officer) this Petition to this court:

May 18, 2008

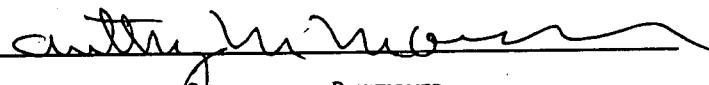
Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

May 16, 2008

(DATE)



SIGNATURE OF PETITIONER

PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, Anthony Morrison, declare:

I am over 18 years of age and a party to this action. I am a resident of Correctional Training Facility, Prison,

in the county of Monterey,

State of California. My prison address is: Y Wing, 120, P. O. Box 689, Soledad, CA 93960,

On May 18, 2008, (DATE)

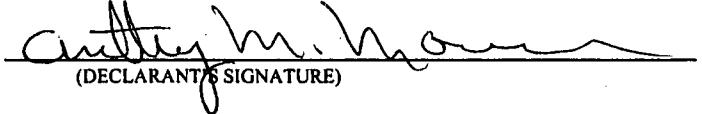
I served the attached: Petition for Writ of Habeas Corpus

(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on May 18, 2008 (DATE)


(DECLARANT'S SIGNATURE)

MEMORANDUM

S157597

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re ANTHONY MORRISON on Habeas Corpus

The petition for writ of habeas corpus is denied.

George, C. J., was absent and did not participate.

**SUPREME COURT
FILED**

APR 23 2008

Frederick K. Ohlrich Clerk

Deputy

WERDEGAR

Acting Chief Justice

COPY

Case # (if applicable): _____

October 18, 2007

To: **CLERK OF THE COURT**
 SUPERIOR COURT
 COURT OF APPEAL
 CALIFORNIA SUPREME COURT

FEDERAL DISTRICT COURT
 FEDERAL COURT OF APPEAL
 U.S. SUPREME COURT

FROM: Anthony Morrison
 California State Prison CTF-Soledad
 Housing: (YW-120-Up)
 P.O. Box 689
 Soledad, California 93960-0689

CDC#: C-60307

Re: **PETITION FOR WRIT OF HABEAS CORPUS**
 PETITION FOR REHEARING/RECONSIDERATION
 PETITION FOR REVIEW
 BRIEF ON APPEAL
 MOTION TO COURT

Case: **IN RE Anthony Morrison**
 PEOPLE V. _____
 OTHER: _____

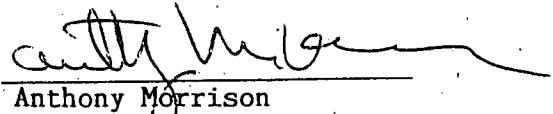
Dear Clerk:

I am presently incarcerated at the California State Prison - Correctional Training Facility (CTF), in Soledad. Due to my incarceration, indigence or minimal funds, and the current policy of the California Department of Corrections as stated in Director Memorandum 15/04, I cannot provide the required number of copies as required by the Rules of Court.

Therefore, I must respectfully request that the court make the required additional copies and to serve any required copies on other parties as necessary.

Further, please send a conformed copy of the documents back to me as a receipt of filing. I apologize for any inconvenience that this may have caused.

Respectfully submitted,


Anthony Morrison

COPY

MC-275

Name Anthony Morrison
 Address P. O. Box 689
Soledad, California.
 Zip. 93960-0689
 CDC or ID Number C-60307

SUPREME COURT OF THE STATE OF CALIFORNIA

(Court)

In re Anthony Morrison**Petitioner**

vs.

Ben Curry, (Warden) (A) et.al**Respondent****PETITION FOR WRIT OF HABEAS CORPUS**

No. _____

*(To be supplied by the Clerk of the Court)*Superior Ct., San Bernardino, Case No.
(SWHSS700203 & CR8103)

Court of Appeal, 4th District, #: (E044148).

INSTRUCTIONS—READ CAREFULLY

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.

• Read the entire form *before* answering any questions.

• This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.

• Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."

• If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.

• If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.

• If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.

• Notify the Clerk of the Court in writing if you change your address after filing your petition.

• In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under rule 8.380 of the California Rules of Court [as amended effective January 1, 2007]. Subsequent amendments to rule 8.380 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

A conviction Parole
 A sentence Credits
 Jail or prison conditions Prison discipline

Other (specify): Subsequent Lifer Parole Consideration Hearing, held on (08/09/2006).

1. Your name: Anthony Morrison

2. Where are you incarcerated? The Correctional Training Facility - Central, Soledad, California.

3. Why are you in custody? Criminal Conviction Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

Kidnap for Robbery, Firearm, Rape, Oral Copulation and Sodomy in concert.

b. Penal or other code sections: Penal Code Sections: 209, 211, 12022.5, 264.1, 288a(d), 286(d).

c. Name and location of sentencing or committing court: Superior Court of the state of California, in and for the County of San Bernardino.

d. Case number: SBD CR 8103

e. Date convicted or committed: January 4th, 1983.

f. Date sentenced: January 26th, 1983.

g. Length of sentence: Two term of (7-Year-To-Life-"With"-The-Possibility-Of-Parole-Release); to run consecutively; plus (4-Year) enhancement.

h. When do you expect to be released? Unknown, No Parole Release Date set yet.

i. Were you represented by counsel in the trial court? Yes. No. If yes, state the attorney's name and address:
Ms. Patricia Flore, (Deputy Public Defender).

4. What was the LAST plea you entered? (check one)

Not guilty Guilty Nolo Contendere Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

Jury Judge without a jury Submitted on transcript Awaiting trial

6. GROUNDS FOR RELIEF

GROUND 1
Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (If you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE DUE PROCESS OF THE LAWS AT
A PAROLE CONSIDERATION HEARING WHEN THE BOARD PANEL FOUND PETITIONER UNSUITABLE FOR
PAROLE RELEASE WITHOUT SOME EVIDENCE TO SUPPORT THEIR DECISION, FAILED TO SET HIS PRIMARY
TERM CONSTITUTIONALLY PROPORTIONATE TO HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT
OFFENSES, AND IN SETTING-OFF HIS NEXT HEARING FOR TWO YEARS.

CRIMES, INC.

Supporting facts: Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. *If necessary, attach additional pages.* CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly *what* to violate your rights at what time (*when*) or place (*where*). (*If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.*)

See attached Memorandum of Points and Authorities: Statement of Facts p. 4 thru 5

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

See attached Memorandum of Points and Authorities: Ground "1", p. 6 thru 30.

7. Ground 2

THE BOARD OF PAROLE HEARINGS (BPH) IMPOSED A CRUEL AND UNUSUAL PUNISHMENT UPON
PETITIONER WHEN THE BOARD PANEL FAILED TO SET PETITIONER'S PRIMARY TERM CONSTITUTIONALLY
PROPORTIONATE AND UNIFORM TO HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES.

a. Supporting facts:
See attached Memorandum of Points and Authorities: Statement of Facts p. 4 thru 5

b. Supporting cases, rules, or other authority:
See attached Memorandum of Points and Authorities: Ground "2", p. 30 thru 34

7. Ground 3

THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE EQUAL PROTECTIONS OF
THE LAWS WHEN THE BOARD PANEL TREATED PETITIONER DIFFERENTLY FROM SIMILARLY SITUATED
PRISONER'S WITH THE SAME OFFENSES.

a. Supporting facts:

See attached Memorandum of Point and Authorities: Statement of Facts p. 4 thru 5

b. Supporting cases, rules, or other authority:

See attached Memorandum of Points and Authorities: Ground "3", p. 34 thru 37

7. Ground 4

THE BOARD OF PAROLE HEARING (BPH) ABUSED ITS DISCRETION WHEN THE BOARD PANEL FAILED TO
ACT WITHIN ITS DISCRETION TO CONSIDER SUBSTANTIAL EVIDENCE SUPPORTING PETITIONER'S
SUITABILITY FOR PAROLE RELEASE AND EXCEEDED ITS DISCRETION IN ACTING BEYOND ITS AUTHORITY.

a. Supporting facts:

See attached Memorandum of Points and Authorities: Statement of facts p. 4 thru 5

b. Supporting cases, rules, or other authority:

See attached Memorandum of Points and Authorities: Ground "4", p. 37 thru 38

7. Ground 5

THE BOARD OF PAROLE HEARING (BPH) RENDERED ARBITRARY AND CAPRICIOUS FINDINGS AND
DECISIONS AT PETITIONER'S PAROLE CONSIDERATION HEARING.

a. Supporting facts:

See attached Memorandum of Points and Authoritie: Statement of Facts p. 4 thru 5.

b. Supporting cases, rules, or other authority:

See attached Memorandum of Points and Authorities: Ground "5", p. 38 thru 42.

7.

Ground 6

APPOINTED COUNSEL DENIED PETITIONER OF THE EFFECTIVE ASSISTANCE OF COUNSEL AT THE
PAROLE CONSIDERATION HEARING.

a. Supporting facts:

See attached Memorandum of Points ad Authorities: Statement of Facts p. 4 thru 5

b. Supporting cases, rules, or other authority:

See attached Memorandum of Points and Authorities; Ground "6", p. 42 thru 45

7. Ground 2 or Ground 7 (if applicable):

...MC-275

THE SUPERIOR COURT ERRED IN ITS ACTUAL FINDINGS, ERRED IN ITS APPLICATION OF THE
LAW, ERRED IN DECIDING ONLY PART OF THE CASE, MISMANAGED THIS CASE AND ABUSED ITS
DISCRETION, ITS DECISION WAS CONTRARY TO, OR UNREASONABLE APPLICATION OF, CLEARLY
ESTABLISHED FEDERAL LAW.

a. Supporting facts:

See attached Memorandum of Points and Authorities; Statement of Facts pp. 4 thru 5.

b. Supporting cases, rules, or other authority:

See attached Memorandum of Points and Authorities; Ground "7", pp. 46 thru 57.

8. Did you appeal from the conviction, sentence, or commitment? Yes. No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

N/A

b. Result: N/A

c. Date of decision: N/A

d. Case number or citation of opinion, if known: N/A

e. Issues raised: (1) N/A

(2) N/A

(3) N/A

f. Were you represented by counsel on appeal? Yes. No. If yes, state the attorney's name and address, if known:

N/A

9. Did you seek review in the California Supreme Court? Yes. No. If yes, give the following information:

a. Result: N/A

b. Date of decision: N/A

c. Case number or citation of opinion, if known: N/A

d. Issues raised: (1) N/A

(2) N/A

(3) N/A

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

N/A

N/A

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

There is no available Administrative Review for the findings and decisions of

the Board of Parole Hearings. See also attached Memorandum of Points and

Authorities: Jurisdiction p. 3

b. Did you seek the highest level of administrative review available? Yes. No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? Yes. If yes, continue with number 13. No. If no, skip to number 15. MC-275

13. a. (1) Name of court: Superior Court of California, County of San Bernardino

(2) Nature of proceeding (for example, "habeas corpus petition"): Habeas Corpus

(3) Issues raised: (a) Due Process, Cruel and Unusual Punishment, Equal Protection,

(b) Abuse of Discretion, Arbitrary and Capricious, Ineffective Assistance of Counsel, Error's of the lower court's.

(4) Result (Attach order or explain why unavailable): Denied, see Exhibit "B".

(5) Date of decision: August 13, 2007

b. (1) Name of court: Court of Appeal, Fourth Appellate District

(2) Nature of proceeding: Habeas Corpus

(3) Issues raised: (a) Due Proces, Cruel and Unusual Punishment, Equal Protection, Abuse

(b) of Discretion, Arbitrary and Capricious, Ineffective Assistance of Counsel, Error's o the lower court's.

(4) Result (Attach order or explain why unavailable): Denied, see Exhibit "D".

(5) Date of decision: October 3, 2007

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:

N/A

N/A

15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

N/A

N/A

16. Are you presently represented by counsel? Yes. No. If yes, state the attorney's name and address, if known:

N/A

N/A

17. Do you have any petition, appeal, or other matter pending in any court? Yes. No. If yes, explain:

N/A

N/A

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

N/A

N/A

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that the foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: October 18, 2007


(SIGNATURE OF PETITIONER)

1 Anthony Morrison C-60307
2 P. O. Box 689
3 Soledad, California.
4 Zip. 93960-0689

5
6 IN PRO PER
7

8 SUPREME COURT OF THE STATE OF CALIFORNIA
9

10 In re Anthony Morrison,) Case No. _____
11 (Petitioner))
12 vs.) PETITION FOR WRIT OF HABEAS CORPUS
13) AND MEMORANDUM OF POINTS AND
14) AUTHORITIES IN SUPPORT THEREOF.
15 Ben Curry, (Warden) (A) et.al) Superior Court, County of
16 (Respondant)) San Beranardino, Case No.
17) (SWHSS700203 & CR8103)
18) Court of Appeal, 4th Appellate
19) District, Case No. (E044148).
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DATE: October 18, 2007

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T A B L E O F C O N T E N T S

2	Cover Page	i.
3	Table of Contens	ii.
4	Grounds of Action	iii.
5	Table of Authorities	iv thru viii.
6	Memorandum of Points and Authorities	1 thru 61.
7	I.] Introduction	1 thru 2.
8	II.] Parties	3.
9	III.] Jurisdiction	3.
10	IV.] Statement of Facts	4 thru 5.
11	V.] Arguments	
12	(Ground)	
13	1	6 thru 30.
14	a	10 thru 24.
15	b	24 thru 28.
16	c	28 thru 30.
17	2	30 thru 34.
18	3	34 thru 37.
19	4	37 thru 38.
20	5	38 thru 42.
21	6	42 thru 45.
22	7	46 thru 54.
23	VI.] Conclusion	54 thru 57.
24	Prayer For Relief	58.
25	Verification	59.
26	Request for Appointment of Counsel	60.
27	Order to Show Cause and Notice to file return	61.

15

EXHIBITS:

16	(A) Transcript, (BPH) (2006) Subsequent Parole Consideration Hearing	4, 5, 6, 7, 11, 13, 124, 19, 20, 21, 22, 23, 28.
17	(B) Superior Court Minute Order, dated (8/13/2007)	46, 51, 56.
18	(C) Transcript, partial of eariler Parole Hearing (8/2/2004)	46.
19	(D) Court of Appeal, Minute Order, dated (10/3/2007)	

20

Abreviations:

21	(A) Acting	1,3.
22	(BPH) Board of Parole Hearings	1,2,5,6,30,34,37,38.
23	(OSC) Order-To-Show-Cause	2.
24	(MEPD) Minimum Eligible Parole Date	4, 27.
25	(15 CCR) California Code of Regulations, Title 15	
26	9,10,12,13,14,15,16,20,21,24,26,37,28,41,49.	
27	(SRV) Serious Rule Violation	16.
28	(LWOP) Life without the possibility of parole	18.
29	(ISL) Indeterminate Sentencing Law	24, 25.

1 G R O U N D S O F A C T I O N
2
3

1. .

4 THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE DUE
5 PROCESS OF THE LAWS AT A PAROLE CONSIDERATION HEARING WHEN THE
6 BOARD PANEL FOUND PETITIONER UNSUITABLE FOR PAROLE RELEASE
7 WITHOUT SOME EVIDENCE TO SUPPORT THAT DECISION , FAILED TO SET
8 HIS PRIMARY TERM CONSTITUTIONALLY PROPORTIONATE AND UNIFORM TO
9 HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES, AND IN
10 SETTING-OFF HIS NEXT HEARING FOR TWO YEARS.

11
12 2.

9 THE BOARD OF PAROLE HEARINGS (BPH) IMPOSED A CRUEL AND UNUSUAL
10 PUNISHMENT WHEN THE BOARD PANEL FAILED TO SET PETITIONER'S
11 PRIMARY TERM CONSTITUTIONALLY PROPORTIONATE AND UNIFORM TO HIS
12 INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES.

13
14 3.

15 THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE EQUAL
16 PROTECTIONS OF THE LAWS WHEN THE BOARD PANEL TREATED PETITIONER
17 DIFFERENTLY FROM SIMILARLY SITUATED PRISONER'S WITH THE SAME
18 OFFENSES.

19
20 4.

17 THE BOARD OF PAROLE HEARINGS (BPH) ABUSED ITS DISCRETION WHEN THE
18 BOARD PANEL FAILED TO ACT WITHIN ITS DISCRETION TO CONSIDER
19 SUBSTANTIAL EVIDENCE SUPPORTING PETITIONER'S SUITABILITY FOR
20 PAROLE RELEASE AND EXCEEDED ITS DISCRETION IN ACTING BEYOND ITS
21 AUTHORITY.

22
23 5.

21 THE BOARD OF PAROLE HEARINGS (BPH) RENDERED ARBITRARY AND
22 CAPRICIOUS FINDINGS AND DECISIONS AT PETITIONER'S PAROLE
23 CONSIDERATION HEARING.

24
25 6.

24 APPPOINTED COUNSEL DENIED PETITIONER OF THE EFFECTIVE ASSISTANCE
25 OF COUNSEL AT THE PAROLE CONSIDERATION HEARING.

26
27 7.

26 THE SUPERIOR COURT ERRED IN ITS FACTUAL FINDINGS,
27 ERRED IN ITS APPLICATION OF THE LAWS, ERRED IN DECIDING
ONLY PART OF THE CASE, MISMANAGED THIS CASE AND ABUSED
ITS DISCRETION, ITS DECISION WAS CONTRARY TO, OR UNREASONABLE
APPLICATION OF, CLEARLY ESTABLISHED FEDERAL LAW.

TABLE OF AUTHORITIES

California Constitution:

(Article)	
I § 1	30.
I § 7	7, 11, 35.
I § 15	42.
I § 17	31, 32, 33.
VI § 10	3

California Statutes:

(Stats.)	
(1982), Ch. 1435, §. 1, p. 5474	29.
(Penal Code)	
§ 209	4.
§ 211	4.
§ 264.1	4.
§ 286(d)	4.
§ 288a(d)	4.
§ 1170.2	16.
§ 1240.1.(a)	44.
§ 1473	3.
§ 1508	3.
§ 2931	15.
§ 2932	14, 15.
§ 3000	24, 28.
§ 3020	31.
§ 3041	8, 12, 19, 26, 28, 29, 37,
§ 3041.5	8, 12, 19, 26, 29, 38.
§ 3042	2, 5, 20.
§ 3060	31.
§ 5011	22.
§ 12022.5	4.

California Administrative Rules and Regulations:

(Adult Authority and Women's Board of Terms and Parole, Title 15:
[Register 76, No. 21-5-22-1978])
§ 2100

(California Code of Regulations, Title 15 [15 CCR])
[Division 2]

§ 2030	20.
§ 2236	21.
§ 2280	8, 19.
§ 2281	9, 10, 12, 13, 14.
§ 2282	24, 26, 27.
§ 2283	26.
§ 2284	26.
§ 2286(d)	15.
§ 2290	26.
§ 2291	15.
§ 2402	22.
§ 2410-2411	26.

1 TABLE OF AUTHORITIES (CON.T)

2	§ 2451	15.
3	§ 2452	15.
4	§ 2429	26.
5	§ 2439	26.
6	§ 2515	24, 28.
7	§ 4978	41.
8	[Division 3.]	
9	§ 3000	16.
10	§ 3315	14.
11	§ 3324	15.

8 State Cases:

9	<u>Bair v. Folsom State Prison</u> , (2005) Case No. (WL 2219220) * 12 n.3 .. 12.	
10	<u>California Welfare Rights Organization v. Brian</u> , (1974) 11 Cal.3d 237, 113 Cal.Rptr. 154, 520 P.2d 970	38.
11	<u>Hollon v. Pierce</u> , (1967) 257 Cal.App.2d 468, 64 Cal.Rptr. 808	40.
12	<u>In re Barker</u> , (2007 DJDAR 7548)	21, 27, 47, 48, 49, 50, 51
13	<u>In re Coronado</u> , (1979) 151 Cal.Rptr. 433, 87 Cal.App.3d 788	15.
14	<u>In re Cowen</u> , (1946) 27 Cal.2d 637, 166 P.2d 279	31.
15	<u>In re Dannenberg</u> , (2005) 34 CAL.4th at p. 1025	22, 47, 50, 51.
16	<u>In re DeLuna</u> , (2005) 24 Cal.Rptr.3d 643	7, 15.
17	<u>In re Elkins</u> , (2006) Court of Appeals, 1st. Appellate District P. 18., 22, 47, 49, 50, 51	47, 49, 50, 51
18	<u>In re Finley</u> , (1905) 1 Cal.App. 198, 81 P. 1041	32.
19	<u>In re Foss</u> , (1974) 10 Cal.3d 910, 112 Cal.Rptr. 649, 519 P.2d 1073 ..	32.
20	<u>In re Harris</u> , 80 Cal.App.2d 173, 181 P.2d 433	15.
21	<u>In re Jackson</u> , 216 Cal.Rptr. 760	29, 38.
22	<u>In re Jackson</u> , (1985) 39 Cal.3d 464	30.
23	<u>In re Lee</u> , (2006) DJDAR 13961	22, 48, 50, 51.
24	<u>In re Lynch</u> , (1972) 8 Cal.3d 410, 105 Cal.Rptr. 217, 503 P.2d 912. 32, 33.	
25	<u>In re McLain</u> , (1960) 55 Cal.2d 78, 9 Cal.Rptr. 824, 357 P.2d 1080	
26	16, 31, 37.
27	<u>In re Minnis</u> , (1972) 7 Cal.3d 639, 102 Cal.Rptr. 749, 498 P.2d 997. 37, 40.	
28	<u>In re Mora</u> , (2007) Superior Court, Case No. (SWHSS 8785)	23.
29	<u>In re Powell</u> , (1986) 232 Cal.Rptr. 553	37.
30	<u>In re Prewitt</u> , (1973) 8 Cal.3d 470	7, 31.
31	<u>In re Rodriguez</u> , (1975) 122 Cal.Rptr. 552, 14 Cal.3d 639, 537 P.2d 384 ..	
32	17, 24, 25, 31, 32, 33.
33	<u>In re Rosenkrantz</u> , (2002) 29 Cal.4th 616, 128 Cal.Rptr.2d 104, 59 P.3d 174	
34	7, 47, 53.
35	<u>In re Rosenkrantz</u> , (2006) Superior Court, Case No. (BH003529)	13, 48, 49, 50, 51.
36	<u>Inre Schoengarth</u> , 66 Cal.2d 295, 57 Cal.Rptr. 600, 425 P.2d 200	31.
37	<u>In re Scott</u> , (2005) 133 Cal.App.4th 595, 34 Cal.Rptr.3d 905.. 12, 19, 29, 23, 48, 51.	
38	<u>In re Scott</u> , 5 Cal.rptr.3d 887	14.
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40	<u>In re Smith</u> , (1970) 3 Cal.3d 192, 90 Cal.Rptr. 1, 474 P.2d 969	
41	<u>In re Smith</u> , (2003) 114 Cal.App.4th 343	19, 51.
42	<u>In re Stanley</u> , (1976) 45 Cal.App.3d 1030, 126 Cal.Rptr. 524	15, 38.
43	<u>In re Stanworth</u> , (1982) 33 Cal.3d 176	27.
44	<u>In re Sturm</u> , (1974) 11 Cal.3d 268	40.
45	<u>Masoner v. State</u> , (2004) Case No. (WL 1080177) at * 1-2	18, 19, 20, 48.

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2 <u>Morris v. Williams</u> , (1976) 67 Cal.2d 733, 63 Cal.Rptr. 689, 433 P.2d 697	38.
3 	38.
3 <u>People v. Cluff</u> , (2001) 87 Cal.App.4th 991	40.
4 <u>People v. Crone</u> , (1997) 62 Cal.Rptr.2d 607, 54 Cal.App.4th 71	41.
4 <u>People v. Denne</u> , 297 P.2d 451	15.
5 <u>People v. Modesto</u> , 59 Cal.2d 722	23, 27.
5 <u>People v. Morse</u> , (1964) 60 Cal.2d 631, 36 Cal.Rptr. 201, 388 P.2d 33	24, 27, 31.
6 	35.
6 <u>People v. Superior Court (Perez)</u> , (1999) 75 Cal.App.4th 394, 89 Cal.Rptr. 2d 326	35.
7 <u>People v. Walker</u> , (1948) 88 Cal.App.2d 265, 198 P.2d 534	42.
8 <u>People v. Wingo</u> , (1975) 14 Cal.3d 169, 121 Cal.Rptr. 97, 534 P.2d 1001	24, 25, 30, 31, 32.
9 <u>Roberts v. Duffy</u> , 167 Cal. 629, 140 P. 260	15.
9 <u>Terhune v. Superior Court</u> , (1998) Cal.App.4th 873	40.

10 United States Constitution:

(Amendments)

11 1st	35.
12 5th	7, 11, 39, 41.
12 6th	42.
13 8th	30, 31.
13 14th	7, 11, 35, 39, 41.

14 Federal Cases:

15 <u>Austin v. Bell</u> , 126 F.3d 843 (6th Cir. 1997)	43.
16 <u>Baumann v. Arizona Dep't of Corrections</u> , 754 F.2d 841 (1985)	36.
16 <u>Biggs v. Terhune</u> , 334 F.3d 910 (9th Cir. 2003)	7, 8, 10, 12, 13, 14, 17, 18, 20,
17 <u>Board of Pardons v. Allen</u> , 482 U.S. 369, 107 S.Ct. 2414, 96 L.Ed.2d 303 (1987)	51.
18 	7, 8.
18 <u>Brewster v. Bd. of Educ. of Lynwood Unified Sch. Dist.</u> , 149 F.3d 971 (9th Cir. 1998)	8.
19 <u>Burger v. Kemp</u> , 483 U.S. 776, 987 L.Ed.2d 638, 107 S.Ct. 3114 (1987)	43.
19 <u>California Department of Corrections v. Morales</u> , 115 S.Ct. 1597, 514 U.S. 499, 131 L.Ed.2d 588 (1995)	29, 38.
20 <u>Canty v. Board of Ed. City of New York</u> , 312 F.Supp. 254 (1970)	39.
21 <u>Caswell v. Calderon</u> , 363 F.3d 832 (9th Cir. 2004)	10, 13, 14.
21 <u>Chapman v. California</u> , 386 U.S. 18 (1967)	23, 27.
22 <u>Guyler v. Sullivan</u> , 466 U.S. 335 (1980)	42.
22 <u>Dalch v. Director Nevada Dept. of Prisons</u> , 10 F.3d 684 (9th Cir. 1993)	8.
23 <u>Dorsey v. Sulomon</u> , 435 F.Supp. 725 (D.C. Md.)	35.
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25 <u>Finney v. Mabry</u> , 445 F.Supp. 756	17.
25 <u>Gadsden v. U.S.</u> , 78 F.Supp. 126 (1948)	39.
26 <u>Greenholtz v. Inmates of Nebraska Penal Complex</u> , 442 U.S. 1, 99 S.Ct. 2100 60 L.Ed.2d 668 (1979)	7, 8.
27 <u>Groseclose v. Bell</u> , 130 F.3d 1161 (6th Cir. 1997)	43.
27 <u>Hall v. Washington</u> , 106 F.3d 742, (7th Cir.)	43.
28 <u>Harris v. Nelson</u> , 394 U.S. 236, 22 L.Ed.2d 281 (1969)	23, 27.

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2	<u>Harris v. Wood</u> , 64 F.3d 1432 (9th Cir. 1995)	35, 36.
3	<u>Hewitt v. Helms</u> , 74 L.Ed.2d 675 (1983)	36.
4	<u>Hill v. Hutto</u> , 537 F.Supp. 1185 (1982)	36.
5	<u>Hosna v. Groose</u> , 80 F.3d 298 (8th Cir.)	36.
6	<u>In re Cunningham</u> , 127 S.Ct. 856 (2007)	26.
7	<u>Irons v. Warden</u> , 358 F.Supp.2d 936 (2005)	12, 13, 18, 19, 20,
8	<u>Jancsek v. Oregon Bd. of Parole</u> , 833 F.2d 1389 (9th Cir. 1987)	10, 13, 14, 48, 49, 51.
9	<u>Kimmelman v. Morrison</u> , 477 U.S. 365 (1986)	43.
10	<u>Landrum v. Warden</u> Federal Correctional Institution Seagoville Texas, 623 F.2d 416 (5th Cir. 1980)	15.
11	<u>Lee v. Washington</u> , 390 U.S. 333 (1968)	35.
12	<u>Mak v. Blodgett</u> , 970 F.2d 614 (9th Cir. 1992)	50.
13	<u>Martin v. Marshall</u> , 431 F.Supp.2d 1038 (N.D. Cal. 2006)	17,
14	<u>McMann v. Richardson</u> , 397 U.S. 759 (1970)	42.
15	<u>McQuillion v. Duncan</u> , 342 F.3d 1012 (9th Cir. 2003)	28.
16	<u>McQuillion v. Duncan</u> , 306 F.3d 901 (9th Cir. 2002)	7, 8, 10, 13, 14, 51,
17	<u>Navajo Freight Lines, Inc. v. U.S.</u> , 320 F.Supp. 318 (1970)	40.
18	<u>O'Boyle v. Coe</u> , D.C., 155 F.Supp. 581 (1957)	39.
19	<u>Page v. U.S. Parole Commission</u> , 651 F.2d 1087	15.
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21	<u>Rosenkrantz v. Marshall</u> , U.S. Central Dist. Court, Case No. (CV 05-3836 GAF [AJW])	48, 49, 50.
22	<u>Shahid v. Cramford</u> , 599 F.2d 666 (5th Cir. 1979)	15.
23	<u>Stewart v. Rhodes</u> , 473 F.Supp. 1185 (1979)	35.
24	<u>Strickland v. Washington</u> , 466 U.S. 690 (1984)	42, 43.
25	<u>Stroud v. U.S. Parole Commission</u> , 668 F.2d 843 (1982)	15.
26	<u>Superintendent v. Hill</u> , 472 U.S. 445 (1985)	10, 13, 14, 19, 20.
27	<u>Tropnoll v. United States</u> , 725 F.2d 151	42.
28	<u>U.S. v. Carmack</u> , 67 S.Ct. 252, 329 U.S. 230 (1946)	39.
29	<u>United States v. Lotempio</u> , 58 F.2d 358 (D.C.N.Y.)	40.
30	<u>U.S. Dist. Court Report and Recommendations</u> , adopted Case No. (WL 3081634) (E.D. Cal. 2005)	12.
31	<u>Weygandt v. Ducharme</u> , 774 F.2d 1491 (9th Cir. 1985)	

19 Text and Other:

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21	<u>California Criminal Procedure and Practice</u> , (6th Ed.) (2002) § 57.19, P. 1695	26.
22	(6th Ed.) (2002) § 57.19, p. 1696	26.
23	Former § 47.41, P. 1459	16.
24	<u>Goldfarb & Singer</u> , After Conviction (1973) pp. 278-282	15.
25	<u>Hood & Sparks</u> , Key issues in criminology (1970) pp. 183-192	15.
26	<u>Morris</u> , Op, Cit. p. 35	15.

27 Other Jurisdictions:

28	<u>Brown v. State</u> , 117 Ariz. 476, 573 P.2d 876	36.
29	<u>Huey v. Davis</u> , 556 S.W.2d 860 (Tex. Civ. App.)	40.
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1 TABLE OF AUTHORITIES (con.t)

2 CALIFORNIA RULES OF COURT:

3 (RULE)

4 4.551(4)-(CB)-(g) 52

5 STATE CASES: (con.t)

CASPER v. CITY OF LOS ANGELES, (1956) 140 CAL. APP. 2d 433,	
295 P.2d 452	54
IN RE CANDELARIO, 3 CAL. 3d p. 705	54
IN RE GRAY, (2007) 59 CAL. Rptr. 3d 724	50
IN RE JAMIEISON (2007) Superior Court, County of Santa Clara, CASE NO. (71194)	51
IN RE LAWRENCE, (2007) 59 CAL. Rptr. 3d 537	48, 49, 50, 51, 54
IN RE RAMIREZ, (2001) 94 CAL. APP. 4th 549	51
IN RE SCOTT, (2004) 119 CAL. APP. 4th at p. 899	47, 51
IN RE WEIDER, (2006) 52 CAL. Rptr. 3d 147	51
IN RE WRIGHT, (1978) 78 CAL. APP. 3d 788, 144 CAL. Rptr. 535	52
PEOPLE v. SCHULTZ, (1965) 23 CAL. APP. 2d 804	54
PEOPLE v. SIMMONS, (2006) 48 CAL. Rptr. 3d 357, 143 CAL. APP. 4th 256	54
POTOMAC OIL CO. v. DYE, (1909) 10 CAL. APP. 534, 102 P. 677	52
ROSE v. Superior Court, 96 CAL. Rptr. 2d 843	52

19 FEDERAL STATUTES: (con.t)

20 28 U.S.C. § 2254(d) 53, 54.

21 FEDERAL CASES: (con.t)

HINES v. THOMPSON, 336 F.3d 848 (9th Cir. 2003)	53
IN RE WILLIS, (2007) 485 F. Supp. 2d 1126	51, 54
SASS v. CALIFORNIA BOARD OF PRISON TERMS, 461 F.3d 1123, (9th Cir. 2006)	54
WILLIAMS (Terry) v. TAYLOR 529 U.S. 362, 120 S.Ct. 1495, 146 L.Ed. 2d 389 (2006)	54

Anthony Morrison C-60307
P. O. Box 689
Soledad, California
Zip. 93960-0689

IN PRO PER

SUPREME COURT OF THE STATE OF CALIFORNIA

In re Anthony Morrion,
(Petitioner)
vs.
Ben Curry, (Warden) (A) et.al
(Respondent)

PETITION FOR WRIT OF HABEAS CORPUS
AND MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF.

Superior Ct., San Bernardino County,
Case No. (SWHSS700203 & CR8103)

Court of Appeal, 4th District,
Case No. (E044148).

INTRODUCTION

16 Petitioner, Anthony Morrison, presents this state Petition for Writ of
17 Habeas Corpus for the State Court to establish whether his current and
18 continued incarceration is lawful and constitutional under State and Federal
19 laws.

20 This Petition is based on the rules of:

21 1.) Substantial and Procedural Due Process of Law from several angels;

22 2.) Cruel and Unusual Punishment Clause;

23 3.) The Equal Protection of the Laws;

24 4.) An Abuse of Discretion;

25 5.) An Arbitrary and Capricious finding and decision; and

26 6.) A denial of the Effective Assistance of Counsel;

27 at petitioner's Subsequent Parole Consideration Hearing held on August 9th,
28 2006; whereat the Board of Parole Hearings (BPH), determined petitioner to

1 be unsuitable for Parole Release, and set-off his future hearing for
 2 (2-Years); because,

- 3 1.) The Commitment Offenses;
- 4 2.) Minor Juvenile Arrest Record;
- 5 3.) Institutional Behavior;
- 6 4.) Parole Plans;
- 7 5.) Penal Code § 3042 Responses.

8 The California Board of Parole Hearings (BPH) has violated and deprived
 9 petitioner of his Fundamental Rights, causing prejudice to petitioner, and
 10 resulting in a Fundamental Miscarriage of Justice.

- 11 1. Petitioner, Anthony Morrison, is serving a (Two-Term-of-7-Years-To-Life-
 12 "With"-The-Possibility-Of-Parole-Release); plus (4-Years), sentence for
 13 Kidnap for Robbery, Firearm, Rape, Oral Copulation and Sodomy in concert,
 14 and occurred in (1981); while petitioner was (17-Years-Old). He has been
 15 incarcerated within the California Department of Corrections and
 16 Rehabilitation for (26-Years) thus far. He is presently housed at the
 17 Correctional Training Facility - Central, a Medium security, Low Level
 18 Custody Facility, in Soledad, California.
- 19 2. Petitioner now seeks and prays for an immediate and unconditional release
 20 from state custody to discharge without a Parole Period; because,
 21 petitioner is well overdue for parole release, and over the Statutory
 22 (5-Year) Parole Period, to grant an Order-To-Show-Cause (OSC), Declare
 23 petitioner's Right's; and grant any and all relief deemed proper.
- 24 3. This Court must correct the California Board of Parole Hearings (BPH)
 25 violations of petitioner's Fundamental Right's, and grant the State
 26 Petition for Writ of Habeas Corpus in the interest of justice.

II

PARTIES

4. Petitioner, Anthony Morrison, is a prisoner within the California Department of Corrections and Rehabilitation, and is presently incarcerated at the Correctional Training Facility - Central, in Soledad, California.
5. Respondent, Ben Curry, is the Acting (A) (Warden) at the Correctional Training Facility, and is the legal custodian of petitioner.
6. Respondent, James Tilton, (Secretary) of the California Department of Corrections and Rehabilitation, and he is responsible for the management and operations of the Department of Corrections.
7. Respondent, James Davis , is the (Chairman) of the California Board of Parole Hearings, and he is responsible for the management and operations of the Parole Board.

III.

JURISDICTION

8. The California Board of Parole Hearings does not provide any available Administrative Review or remedy for its' findings and decisions after a Lifer Parole Consideration Hearings.
9. Moreover, the Parole Board lacks any further jurisdiction in this case over petitioner; wherefore, petitioner is well overdue for his Parole Release.
10. And this Court, has original jurisdiction in Habeas Corpus pursuant to the California Constitution Article VI, § 10; and Penal Code §§ 1473, 1508. Petitioner were convicted and sentenced at the Superior Court of California, in the County of San Bernardino.

1 I V.
2S T A T E M E N T O F F A C T S

3 11. Petitioner's Criminal History consist of a minor juvenile arrest record
4 of petty theft and indecent exposure. Nonetheless, he has "No!" prior
5 violence, "No!" prior convictions, and "No!" juvenile confinements.

6 See Exhibit "A", Transcript, (2006) Subsequent No. (2), Parole
7 Consideration Hearing, p. 70: lines 18-20; and p. 22 thru 31.

8 12. The Commitment Offenses, occurred on December 25th, 1981; while
9 petitioner was (17-Years-Old). He had spontaneously involved himself in
10 a Kidnap for Robbery, that resulted in other offenses as firearm, rape,
11 oral copulation and sodomy in concert. Petitioner was the second
12 youngest among the group and were influenced by the elders; whom were
13 in their twenties. See Exhibit A, p. 10 thru 22.

14 13. On January 4th, 1983, the Superior Court of California, for the County
15 of San Bernardino, convicted petitioner of Kidnap for Robbery, Firearm,
16 Rape, Oral Copulation and Sodomy in concert, in violation of Penal
17 Codes; §§ 209, 211, 12022.5, 264.1, 288a(d), and 286(d). That court has
18 also sentenced petitioner on January 26th, 1983, to: Two terms of
19 (7-Years-To-Life—"With"—The-Possibility-Of-Parole-Release), to run
20 consecutively; plus a (4-Year) enhancement. See Exhibit "A", p. 1:
21 - lines 11-27; p. 2: lines 1-2.

22 14. The Board of Prison Terms (BPT) had established petitioner's Minimum
23 Eligible Parole Date (MEPD) at September 25th, 1995. See Exhibit "A",
24 p. 1: lines 10-11; p. 2: lines 4-6.

25 15. Next, the Board of Prison Terms held petitioner's Initial Parole
26 Consideration Hearing on June 2nd, 1997. The Board Panel found
27 petitioner unsuitable for parole release, and set-off his next hearing
28 for (2 -Years).

1 16. Then, on August 2nd, 2004 the Board of Prison Terms held a Subsequent
2 #: (1) Parole Consideration Hearing. There the Board Panel again found
3 petitioner unsuitable for parole release, and set-off his next hearing
4 for(2-Years).

5 17. Now, on August 9th, 2006, the Board of Parole Hearings (BPH) held
6 Subsequent #: (2) Parole Consideration Hearing. Whereby the Board Panel
7 a third time found petitioner unsuitable for parole release, and would
8 pose a threat to public safety if released on parole; because, of the:

- 9 a.) The Commitment Offense, see Exhibit "A", p. 69: lines 14-26;
10 P. 70: lines 5-6, 13-14;
- 11 b.) Minor Juvenile Arrest Record, see Exhibit "A", p. 70: lines 18-20;
- 12 c.) Institutional Behavior, see Exhibit "A", p. 70: lines 22-25; p. 71:
13 lines 1-4;
- 14 d.) Parole Plans, see Exhibit "A", p. 72: lines 11-12;
- 15 e.) Penal Code § 3042, Responses, see Exhibit "A", p. 73: lines 2-6;
- 16 f.) Not taking full responsibility for the offenses, see Exhibit "A",
17 p. 73: lines 13-14;
- 18 g.) Gains not recent, see Exhibit "A", p. 74: lines 11-12.

19 And they set-off his next Parole Consideration Hearing for (2-Years),
20 for the same reasons (unchanging factor's) mentioned above. See
21 Exhibit "A", pp. 69 thru 70.

1
V.
23
A R G U M E N T S
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G r o u n d
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1.
8

THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE DUE PROCESS OF THE LAWS AT A PAROLE CONSIDERATION HEARING WHEN THE BOARD PANEL FOUND PETITIONER UNSUITABLE FOR PAROLE RELEASE WITHOUT SOME EVIDENCE TO SUPPORT THAT DECISION, FAILED TO SET HIS PRIMARY TERM CONSTITUTIONALLY PROPORTIONATE AND UNIFORM TO HIS INDIVIDUAL CULPABILITY IN THE COMMITMENT OFFENSES, AND IN SETTING-OFF HIS NEXT HEARING FOR TWO YEARS.

9 18. The Board of Parole Hearings (BPH) held petitioner's Parole
10 Consideration Hearing, Subsequent #: (2); on August 9th, 2006. At
11 that hearing the Board Panel found petitioner unsuitable for parole
12 release, and that he would pose an unreasonable risk of danger to
13 society or a threat to public safety if released from prison based on:
14 a.) The Commitment Offenses, see Exhibit "A", Transcript, (2006) Parole
15 Consideration Hearing, Subsequent #: (2), p. 69: lines 14-26;
16 p. 70: lines 5-6, 13-14;
17 b.) Petitioner's minor juvenile arrest record, see Exhibit "A", p. 70:
18 lines 18-20;
19 c.) Institutional Behavior, see Exhibit "A", p. 70: lines 22-25; p. 71:
20 lines 1-4;
21 d.) Parole Plans, see Exhibit "A", p. 72: lines 11-12;
22 e.) Information from District Attorney and the Victim, see Exhibit "A",
23 p. 73: lines 2-6;
24 f.) Not taking full responsibility for the offenses, see Exhibit "A",
25 p. 73: lines 13-14;
26 g.) Positive gains not being recent, see Exhibit "A", p. 74: lines
27 11-12.

1 In addition, they set-off the next parole consideration hearing for
 2 two-years, based upon the same factor's mentioned here above, see
 3 Exhibit "A", pp. 69-70.

4 19. Petitioner has a right to the Due Process of law at his parole
 5 consideration hearing. The 5th and 14th Amendments of the United States
 6 Constitution, and the California Constitution, Article I, § 7;
 7 guarantees its citizens the due process of the laws. Those constitutions
 8 prohibit the parole board from depriving a prisoner of life, liberty,
 9 or property without the due process of law.

10 20. Accordingly, the court must first address whether petitioner has a
 11 constitutionally protected liberty interest in parole.

12 21. While there is no constitutional or inherent right of a convicted person
 13 to be conditionally released before the expiration of a valid sentence,
 14 a state's statutory scheme, if it uses mandatory language, creates a
 15 presumption that parole release will be granted when or unless certain
 16 designated findings are made, an thereby gives rise to a constitutional
 17 liberty interest. McQuillion v. Duncan, 306 F.3d at 901 (9th Cir. 2002);
 18 Board of Pardons v. Allen, 482 U.S. 369, 373, 107 S.Ct. 2415, 96 L.Ed.2d
 19 303 (1987); Greenholtz v. Inmates of Nebraska Penal Complex, 442 U.S.
 20 1, 7, 11-12, 99 S.Ct. 2100, 60 L.Ed.2d 668 (1979).

21 22. The California Supreme Court has repeatedly held that the state parole
 22 scheme creates a protected liberty interest for prisoners. See e.g.,
 23 In re DeLuna, (2005) 24 Cal.Rptr.3d 643, 648; In re Rosenkrantz, (2002)
 24 29 Cal.4th 616, 656-657, 661, 128 Cal.Rptr.2d 104, 59 P.3d 174;
 25 In re Prewitt, (1973) 8 Cal.3d 470; Biggs v. Terhune, 334 F.3d 910,
 26 914 (9th Cir. 2003); McQuillion v. Duncan, 306 F.3d 895, 901-902
 27 (9th Cir. 2002).

28 23. The California parole scheme uses mandatory language and is largely

1 parallel to the schemes found in Allen and Greenholtz. Therefore, a
 2 liberty interest was created. Biggs v. Terhune, 334 F.3d 910, 914
 3 (9th Cir. 2003); McQuillion v. Duncan, 306 F.3d at 891 (2002);
 4 Dalch v. Director Nevada Dept. of Prisons, 10 F.3d 684, 688 (9th Cir.
 5 1993).

6 24. In analyzing the procedural safeguards owed to an inmate under the due
 7 process clause, the court must look at two distinct elements:
 8 a.) A deprivation of a constitutionally protected liberty or property
 9 interest, and
 10 b.) A denial of adequate procedural protection.

11 McQuillion v. Duncan, 306 F.3d 895, 900 (9th Cir. 2002); Brewster v.
 12 Bd. of Educ. of Lynwood Unified Sch. Dist., 149 F.3d 971, 982 (9th Cir.
 13 1998).

14 25. The California statutes Penal Code, §§ 3041, 3041.5; requires that the
 15 parole board shall normally set a release date that will provide uniform
 16 terms for offenses of similar gravity and magnitude in respect to their
 17 threat to the public, and that will comply with the sentencing rules
 18 that the judicial council may issue and any sentencing information
 19 relevant to the setting of parole release dates.

20 26. In addition, the parole board established criterion to determine whether
 21 a prisoner under its jurisdiction is a current danger or threat to the
 22 public. See the California Code of Regulations, Title 15, (15 CCR) §§
 23 2280 et seq.

24 27. Those regulations list "Circumstances Tending to show unsuitability",
 25 (current danger to the community) are:

26 (1) Commitment Offense:

27 Was "especially heinous atrocious and cruel manner." The factors
 28 to be considered include:

- (A) Multiple Victims,
- (B) Was carried out in a dispassionate or calculated manner, such as an execution-style murder,
- (C) The victim was abused, defiled or mutilated,
- (D) Showed an "exceptionally callous disregard for human suffering,"
- (E) Involved an "inexplicable or very trivial motive;

(2) Previous record of violence:
Showing that the prisoner has on previous occasions inflicted or attempted to inflict serious injury;

(3) Unstable Social History:
Showing that the prisoner has a history of tumultuous relationships with others;

(4) Sadistic Sexual Offenses:
Have been committed by the prisoner;

(5) Psychological Factors:
Shows a lengthy history of severe mental problems related to the offense; and

(6) Institutional Behavior:
Shows that the prisoner has engaged in serious misconduct in prison.

See (15 CCR) § 2281(c).

28. Moreover, those regulations also list "Circumstances Tending to show suitability, (no current danger to the community) are:

- (1) No juvenile record:
Of assaulting others or committing offenses with a potential of personal harm to the victim;
- (2) Stable social history:
Showing reasonably stable relationships with others;
- (3) Signs of remorse:
Showing that the prisoner is remorseful, such as attempting to repair damage or indicating understanding of the nature and magnitude of the offense;
- (4) Motivation for the crime:
Was the result of significant stress, especially if the stress had built over a long period of time;
- (5) Battered women syndrome:
Indicating the offense was the result of this type of victimization;
- (6) Lack of criminal history:
Showing that the prisoner lacks "any significant history of violent crime";

1 (7) Age:

2 Such that prisoner's probability of recidivism is reduced;

3 (8) Plans for the Future:

4 That are realistic or depend on marketable skills; and

5 (9) Institutional activities:6 That show an enhanced ability to function within the law upon
7 release. See (15 CCR) § 2281(d).

8 a.

9 The Parole Board Panel found petitioner unsuitable for
10 Parole Release "Without Some Evidence" to support that
11 decision.12 29. The Due Process requires that some evidence support the parole board's
13 determination, and that the evidence must have some indicia of
14 reliability. Caswell v. Calderon, 363 F.3d 832, 839 (9th Cir. 2004);
15 Biggs v. Terhune, 334 F.3d 910, 915 (9th Cir. 2003); McQuillion v.
16 Duncan, 306 F.3d at 904 (2002); Jancsek v. Oregon Bd. of Parole, 833
17 F.2d 1389, 1390 (9th Cir. 1987); Superintendent v. Hill, 472 U.S. 445,
18 457 (1985).19 30. The some evidence standard is satisfied if there is any reliable evidence
20 in the record that could support the conclusion reached. Powell v. Gomez,
21 33 F.3d 39, 40 (9th Cir. 1994).22 31. In the parole hearing setting, the due process analysis is not whether
23 the crime alone can make a prisoner a threat; rather, it is when all the
24 evidence is considered, does that totality of evidence support a finding
25 that the prisoner is a current threat. See also (15 CCR) § 2281(b).26 32. There is no evidence to support the parole board's determination that
27 petitioner would be a risk to public safety if released. The parole
28 board panel denied petitioner a parole release date at the (2006) parole
consideration hearing, subsequent #: (2); based on unchanging factor's
such as the commitment offenses, petitioner's minor juvenile arrest
record, institutional behavior, parole plans, information from the D.A.
10.

1 and victim, responsibility for the offenses, and recent positive gains.

2 33. The focus of the parole board's panel assessment is required to be the
3 prisoner's current dangerousness. Because, with the passage of time,
4 the crime becomes less and less significant when there is more and more
5 evidence of change, maturation, and rehabilitation in the prisoner,
6 as in this case.

7 34. The parole board panel's continued determinations that petitioner
8 continues to pose an unreasonable risk of danger to society if released
9 to parole; after twenty-six-years of incarceration, rehabilitation, and
10 five parole denials; deprive petitioner of his liberty interest in
11 parole release violating his right's to the due process as afforded him
12 by the 5th and 14th Amendments of the United States Constitution and
13 California Constitution, Article I, § 7.

14 35. The (2006) parole board panel First Reason for determining petitioner
15 unsuitable for parole release was the (commitment offenses). The panel
16 stated that "the commitment offenses was carried out in a calculated,
17 cold, cruel and callous manner . . . all of the offenses were carried out
18 in a manner which demonstrate an exceptionally callous disregard for
19 human suffering." See Exhibit "A", p. 69: lines 14-26. And that "the
20 motive for the crime was very trivial, . . ." See Exhibit "A", P. 70:
21 lines 5-6, 13-14.

22 36. The finding of continued threat to society was not supported by any
23 evidence; the finding was based upon unchanging factor's (such as the
24 commitment offenses, petitioner's minor juvenile arrest record,
25 institutional behavior, parole plans, information from the D.A., and
26 victim, not taking responsibility for the offenses, and recent gains; are
27 all of which lacked a reasonable predictive value relevant to the question
28 of petitioner's current dangerousness, and had been used to deny parole

1 on two prior occasions; the findings were not based upon evidence
 2 relevant to petitioner's current risk to the community if released; and
 3 the denial was not a proper application of the California Penal Code,
 4 §§ 3041 et seq., 3041.5 and the parole board's regulations (15 CCR)
 5 § 2281 et seq. See also Rosenkrantz v. Marshall, U.S. Central District
 6 Ct. Case No. (CV 05-3836 GAF (AJW)).

7 37. Reliance on petitioner's commitment offenses violated due process.
 8 Continued reliance on an unchanging factor such as the circumstances of
 9 the offenses could result in a due process violation. The parole board's
 10 sole supportable reliance on the gravity of the offense and conduct
 11 prior to imprisonment to justify denial of parole can be initially
 12 justified as fulfilling the requirements set forth by state law. Over
 13 time, however, should petitioner, continue to demonstrate exemplary
 14 behavior and evidence of rehabilitation, denying him a parole date
 15 simply because of the nature of his offense would raise serious questions
 16 involving his liberty interest. Biggs v. Terhune, 334 F.3d at 916.

17 38. The facts of the unchanged circumstance must indicate a present danger
 18 to the community if released, and this can only be assessed not in a
 19 vacuum, after five eligibility hearings, but counterpoised against the
 20 backdrop of prison events. Bair v. Folsom State Prison, Case No.
 21 (WL 2219220), *12 n. 3 (E.D. Cal. 2005); U.S. Dist. Ct. Report and
 22 Recommendations, adopted Case No. (WL 3081634), (E.D. Cal. 2005). Please
 23 take judicial notice.

24 39. After twenty years of rehabilitation, the ability to predict a prisoner's
 25 future dangerousness based simply on the circumstances of the crime and
 26 petitioner's prior criminal history is nil. See Irons v. Warden, 358
 27 F.Supp.2d at 947 n.2. See also In re Scott, 133 Cal.App.4th at 595
 28 (2005).

1 40. The parole board panel continued sole reliance on the commitment offense
2 will essentially convert petitioner's original sentence of life with the
3 possibility of parole into a sentence of life without the possibility of
4 parole. Petitioner has no chance of obtaining parole unless the board
5 holds that his crime was not serious enough to warrant a denial of
6 parole. Please take judicial notice of In re Rosenkrantz, Superior Court
7 County of Los Angeles, Case No. (BH003529) p. 3. (2006); Irons v. Warden,
8 358 F.Supp.2d 936, 947 (2005).

9 41. The parole board continued reliance on petitioner's commitment offenses
10 deprives petitioner of the due process of the laws. That factor does not
11 constitute ~~some~~ evidence with some indicia of reliability of an current
12 dangerousness assessment. See Caswell v. Calderon, 363 F.3d 832, 839
13 (9th Cir. 2004); Biggs v. Terhune, 334 F.3d 910, 915 (9th Cir. 2003);
14 McQuillion v. Duncan, 306 F.3d at 904 (2002); Jancsek v. Oregon Bd. of
15 Parole, 833 F.2d 1389, 1390 (9th Cir. 1987); Superintendent v. Hill,
16 472 U.S. 445, 457 (1985); Powell v. Gomez, 33 F.3d 39, 40 (9th Cir. 1994).

17 42. The Second Reason for determining petitioner unsuitable for parole
18 release was the (minor juvenile arrest record). The panel stated:
19 "The panel also noted that you had a petty theft charge ... and you
20 also had two counts of indecent exposure" See Exhibit "A", p. 70:
21 lines 18-20.

22 43. The parole board's regulations (15 CCR) § 2281(c)-(2), sets forth:

23 "Previous Record of violence. The prisoner on
24 previous occasions inflicted or attempted to
25 inflict serious injury on a victim,
particularly if the prisoner demonstrated
serious assaultive behavior at an early age."

26 44. There is no evidence that petitioner has a record of previous violence.
27 Petitioner has only a minor juvenile arrest record of two arrests; one
28 was theft related the other was for indecent exposure; when petitioner

1 was a child. Petitioner has "No!", prior record of violence, "No!",
 2 prior convictions, and "No!", juvenile commitments. See herein Statement
 3 of Facts p. 4: ¶ 11.

4 45. The parole board continued reliance on petitioner's minor juvenile arrest
 5 record deprives petitioner of the due process of the laws. That factor
 6 does not constitute some evidence with some indicia of reliability of
 7 an current dangerousness assessment. See Caswell v. Calderon, 363 F.3d
 8 832, 839 (9th Cir. 2004); Biggs v. Terhune, 334 F.3d 910, 915 (9th Cir.
 9 2003); McQuillion v. Duncan, 306 F.3d at 904 (2002); Jancsek v. Oregon
 10 Bd. of Parole, 833 F.2d 1389, 1390 (9th Cir. 1987); Superintendent v.
 11 Hill, 472 U.S. 445, 457 (1985); Powell v. Gomez, 33 F.3d 39, 40
 12 (9th Cir. 1994).

13 46. The (2006) parole board panel Third Reason for determining petitioner
 14 unsuitable for parole release was the (Institutional Behavior). The
 15 panel stated: "... your programing, ...has been a disaster prior to the
 16 last few years. You were a management problem for 20 years in this
 17 institution" See Exhibit "A", p. 70: lines 22-25. "...you had 17
 18 115's, of those 17 115's, the last one was in (2004). But since --
 19 within the last five years you've had five 115's primarily for either
 20 stealing food or manufacturing pruno." See Exhibit "A", p. 71: lines
 21 1-4.

22 47. The parole board regulations (15 CCR) § 2281(c)-(6), sets forth:

23 "Institutional Behavior. The prisoner has engaged
 24 in serious misconduct in prison or jail."

25 48. Serious misconduct is defined in Penal Code, § 2932(a)-(4); (15 CCR)
 26 § 3315(a)-(1)-(2)-(A) thru (E)-(3)-(A). See also In re Scott, (2003)
 27 5 Cal.Rptr.3d 887, 891.

28 49. Moreover, only specific acts of misconduct is reportable to the parole

1 board (15 CCR) §§ 2452(a), 3324(a). Those specific acts (mainly
2 violence and escapes) are enumerated in (15 CCR) § 2451(a).

3 50. Accordingly, the parole board has the discretion to impose an
4 additional term specific enhancement for violation of any of the
5 specific acts specified in 2451(a). See (15 CCR) §§ 2291, 2286(d).
6 See also Penal code, §§ 2931, 2932; In re coronado, (1979) 151 Cal.Rptr.
7 433, 436 fn. 4, 87 Cal.App.3d 788, 793.

8 51. However, nor must the Commission consider institutional conduct as a
9 major factor in its determination for parole. Page v. U.S. Parole
10 Commission, 651 F.2d at 1087; Landrum v. Warden Federal Correctional
11 Institution Seagoville Texas, 623 F.2d 416, 418 (5th Cir. 1980);
12 Shahid v. Cramford, 599 F.2d 666, 670 (5th Cir. 1979). See also
13 Stroud v. U.S. Parole Commission, 668 F.2d 843, at 846 (1982);
14 In re DeLuna, 24 Cal.Rptr.3d at 652.

15 52. Because, in prison behavior is frequently an unreliable indicator of
16 post release behavior; that predictions of post release danger gain
17 little certainty with the passage of confinement time. (Goldfarb &
18 Singer, After Conviction (1973) pp. 278-282; Hood & Sparks, key issues
19 in criminology (1970) pp. 183-192; Morris op. Cit., p. 35.); In re
20 Stanley, (1976) 54 Cal.app.3d 1030, at 1039, 126 Cal.Rptr. 524.

21 53. Moreover, in determining whether the privilege of parole shall be
22 granted a prisoner, that authority is not guided solely by the good
23 conduct of the prisoner while incarcerated Roberts v. Duffy,
24 167 cal. 629, 640, 140 P. 260; In re Harris, 80 Cal.App.2d 173, 178,
25 181 p.2d 433. See also People v. Denne, 297 P.2d 451, at 456.

26 54. Furthermore, a program failure means any inmate who generates a
27 significant disciplinary history within (180-days) of the date of

1 discovery for the most current rule violation report. A guilty
2 finding for two serious rules violation reports or one serious and
3 two administrative rules violations reports within (180-days) is
4 reasonable evidence of a significant disciplinary history and may be
5 considered a program failure. (15 CCR) § 3000.

6 55. The question should be whether the Serious Rule Violation (SRV) is
7 of such magnitude that it reasonably supports a conclusion that a
8 prisoner therefore poses an unreasonable threat to public safety. If
9 the controlling statute specifies only the gravity of a past or present
10 convicted offense, and the regulations provide sanctions for (SRV),
11 petitioner submits that denial of parole for any (SRV) is insufficient
12 and it does not show petitioner, presents a current threat to public
13 safety if released from prison after serving (26-Years) in prison.

14 56. And the parole board must find an extraordinary factor i.e., one or
15 more of those factors listed that allows the board to set a sentence
16 longer than that which could be imposed under Penal Code, § 1170.2(a).
17 See also In re McLain, (1960) 55 Cal.2d 78, 9 Cal.Rptr. 824, 357 P.2d
18 1080.

19 57. At the very minimum, the prisoner must be discipline - free for
20 at least the previous (5-Years) before the suitability hearing
21 Criminal Law Procedure and Practice former § 47.41, p. 1459. In the
22 instant case, petitioner has demonstrated exemplary behavior far longer
23 than the (5-year) minimum required.

24 58. And the number of past infractions is insufficient to support a
25 determination that petitioner is a danger or threat to public safety;
26 for example: in one case, a court held "... his conduct in prison was
27 exemplary for a period of many years, (...) he has been charge with only

1 a dozen rules infractions'" In re Rodriguez, (1975) 122 Cal.Rptr.
 2 552, at 556 fn. 7, 14 Cal.3d 639, 537 P.2d 384. And in another case,
 3 the court held "... petitioner has received twenty disciplinary
 4 violations while in prison ... with respect to petitioner's
 5 disciplinary violations, there is significant evidence in the record
 6 of petitioner's positive institutional behavior, which reasonably
 7 mitigates the effect that petitioner's past violations have on his
 8 suitability for parole ... petitioner has not had a significant
 9 disciplinary violation since 1995" Martin v. Marshall, 431
 10 F.Supp.2d 1038, 1042 (N.D. Cal. 2006). In the instant case, petitioner
 11 has not had a significant disciplinary violation for many years.

12 59. And Officials cannot rely in prison proceedings exclusively upon
 13 conclusory statements by prison employees. Finney v. Mabry, 445 F.Supp.
 14 756, or upon accusatory instrument. People ex rel. McBasyne v. Smith,
 15 469 N.Y.S.2d 893, 122 Mic.2d 199.

16 60. A continued reliance in the future on an unchanging factor, ... runs
 17 contrary to the rehabilitative goals espoused by the prison system and
 18 could result in a due process violation. Biggs v. Terhune, 334 F.3d
 19 910, at 917 (9th cir. 2003).

20 61. There is no current evidence that petitioner had engaged in serious
 21 misconduct in prison or jail. The parole board must base its decisions
 22 on an objective and defined criterion; such as defined serious
 23 misconduct, specific acts of violence and escapes, institutional conduct
 24 not a major factor in determining parole and is frequently an unreliable
 25 indicator of post release behavior, the board authority is not guided
 26 solely by the good conduct of the prisoner while incarcerated, being
 27 that a program failure is one who generates a significant disciplinary
 28 history within (180-days), parole board must find an extraordinary

1 factor, plus the number of past infractions is insufficient to support
2 a determination petitioner is a danger or threat to public safety,
3 officials cannot rely in prison proceedings exclusively upon conclusory
4 statements by prison employees or upon accusatory instrument, and
5 continued reliance in the future on an unchanging factor runs contrary
6 to rehabilitative goals.

7 62. continued reliance upon the unchanging factor of petitioner's minor to
8 less serious disciplinary history; which occurred more than (5-years)
9 ago is unfair, unreasonale and violate the due process clause.

10 63. Petitioner has demonstrated exemplary behavior and evidence of
11 rehabilitation, as required by the Biggs Court, for a significant
12 period of time. Therefore, the sole reliance on petitioner' past minor
13 to less serious disciplinary history in denying him parole impinges on
14 petitioner's constitutional liberty interest in parole.

15 64. If the parole board is permitted to continue to deny parole based on
16 the immutable and static factors of petitioner's minor to less serious
17 disciplinary history itself, then the board could continue to deny
18 parole forever as those circumstances will never change. This would in
19 effect, convert petitioner's sentence to LWOP, a sentence not
20 prescribed by the Legislature for petitioner's offense.

21 65. The parole board has apparently relied on these unchanging factors at
22 least two prior times in finding petitioner unsuitable for parole. Under
23 these circumstances, the continued reliance on these factors violates
24 due process. Irons v. Warden, 358 f.Supp.2d 936 at 947.

25 66. The board's refusal to grant a parole date and repeated failure to
26 provide post commitment support for the decisions [had] violated
27 petitioner's liberty interest and due process rights. Masoner v. State,
28 2004 wl 1080177 at * 1-2 (C.D. Cal. 2004).

1 67. The factor of petitioner's past minor to less serious disciplinary
2 offenses do not constitute some evidence with some indicia of
3 reliability of petitioner's current dangerousness. See In re Scott,
4 133 Cal.App.4th at 573 (2005); Masoner v. state, (2004) WL 1080177
5 1-2 (C.D. Cal. 2004); Irons, 358 F.Supp.2d at 947; Hill, 472 U.S. at
6 455.

7 68. The (2006) parole board panel Fourth reason for determining petitioner
8 unsuitable for parole release was the (Parole Plans). The panel stated:
9 "... but you need to get some employment plans." See Exhibit "A",
10 p. 72: lines 11-12.

11 69. California Statutes nor the parole board's Regulations provides no
12 authority for a finding of unsuitability based on parole plans. See
13 Penal Code, §§ 3041, 3041.5; (15 CCR) §§ 2280 thru 2292.

14 70. And there is no evidence petitioner lack realistic plans for release or
15 failed to develop marketable skills that can be put to use upon release.
16 Even the parole board said as much when it stated: "... your
17 Parole Plans, you do have viable residential plans,' See
18 Exhibit "A", p. 72: lines 11-12, "... you do have a marketable skill,
19 that you are a Welder." Exhibit "A", p. 73: lines 1-2. Petitioner have
20 made significant achievements throughout his twenty-six-years of
21 incarceration in personal growth and marketable work skills that will
22 be put to good use upon release making his smooth transition back into
23 the community. All of these things illustrate petitioner's marketable
24 skills and viable parole plans for his release to the community.

25 71. The parole board's evidence must show that a prisoner currently would
26 pose an unreasonable risk of danger if released at this time. In re
27 Smith, 114 cal.App.4th 343, 370, 372 92003); In re Shaputis, 37 Cal.Rptr.
28 3d 324, 334-335, 135 Cal.app.4th 217 (2005)

1 72. The board's continued reliance on petitioner's realistic and viable
 2 parole plans should be considered a due process violation; because, it
 3 amounts to an arbitrary decision and because that factor do not
 4 constitute some evidence with some indicia of reliability of a current
 5 dangerousness. See In re Scott, 133 Cal.App.4th at 573 (2005); Masoner
 6 v. State, (2004) WL 1080177 * 1-2 (C. C. Cal. 2004) Please take judicial
 7 notice; Irons v. Warden, 358 F.Supp.2d at 947; Biggs v. Terhune, 334
 8 F.3d at 917; and Hill, 472 U.S. at 455.

9 73. The (2006) parole board panel Fifth reason for determining petitioner
 10 unsuitable for parole release was the (District Attorney (DA) opposition
 11 and a letter from the victim). The panel stated: "... 3042 responses, we
 12 note the DA of ... indicate an opposition of finding of parole
 13 suitability as well as the victim in her letter" See Exhibit "A",
 14 p. 73: lines 2-6.

15 74. Penal Code, § 3042 provides in part:

16 "... The parole board shall review and consider all
 17 information received from the judge or any other
 18 person and shall consider adjusting the terms or
 19 conditions of parole to reflect the comments or
 20 concerns raised by this information, as appropriate
 21" Penal Code, § 3042(f)-(3).

22 75. The role of the prosecutor is to comment on the facts of the case and
 23 present an opinion about the appropriate disposition. In making comments,
 24 supporting documentation in the file should be cited. The prosecutor
 25 may be permitted to ask clarifying questions of the hearing panel, but
 26 may not render legal advise. (15 CCR) (1995) § 2030(d)-(2).

27 76. Penal Code, § 3042 responses, at basically all lifer parole consideration
 28 hearings, the District Attorney's take the position of opposing parole
 release whether they personally believe a lifer should be paroled. As
 well, so does the victim in the case. However, their opinions are based

1 on the past acts of the lifer that (occurred many, many years ago), that
2 does not constitute some evidence that petitioner would pose a current
3 danger or threat to public safety. See In re Barker, (2007 DJDAR 7548,
4 at 7555).

5 77. The District Attorney's statement added absolutely nothing of material
6 or relevant evidentiary value in the inquiry of petitioner's
7 "suitability" for parole.

8 78. The board panel erred in finding that opposition by the District Attorney
9 constituted a basis for denial of parole, where the D.A. submitted no
10 evidence whatsoever that petitioner was "unsuitable" for parole.

11 79. Therefore, it was improper for the panel to use this opposition as
12 cause for parole denial.

13 80. Likewise, a letter from the victim opposing parole is insufficient as
14 cause for denial of parole. The letter added nothing of evidentiary
15 value in the inquiry of petitioner's "suitability" for parole. It was
16 also improper for the panel to use this opposition as cause for parole
17 denial.

18 81. Next, the (2006) parole board panel Sixth reason for determining
19 petitioner unsuitable for parole release was that petitioner (Did not
20 take full responsibility for the crime). The panel stated: "... whereas
21 you were not taking full responsibility for the crime" See
22 Exhibit "A", p. 73: lines 13-14.

23 82. The parole board regulations (15 CCR) (1995) § 2236 provides in part:
24
25 "The facts of the crime shall be discussed with the
26 prisoner to assist in determining the extent of
personal culpability. The board shall not require
an admission of guilt to any crime for which the
prisoner was committed"

1 83. Another pertinent regulation states:

2 "Signs of remorse. The prisoner performed acts which
 3 tend to indicate the presence of remorse such as
 4 attempting to repair the damage, seeking help for
 5 or relieving suffering of the victims, or indicating
 6 that he understands the nature and magnitude of the
 7 offense." (15 CCR) § 2402(d)-(3).

8 The issue here is whether petitioner showed that he "understands the
 9 nature and magnitude of the offense. See In re Elkins, (2006) Court of
 10 Appeals , 1st Appellate Dist. p. 18.

11 84. Petitioner did accept responsibility at the (2006) parole board hearing
 12 and showed signs of remorse. This is certainly progress. See Exhibit "A",
 13 pp. 10 thru 21. Petitioner never denied participating in the offenses,
 14 he had necessarily acknowledged his guilt; and acknowledged his
 15 individual culpability in any event, by the time of his last parole
 16 hearing, his acceptance of responsibility for his crimes was complete.
 17 See In re Wen Lee, (2006 DJDAR 13961, 13965).

18 85. To deny parole, the reason must relate to a defendant's continued
 19 unreasonable risk to public safety. So long as petitioner continually
 20 accepts responsibility, it does not matter how long standing or recent
 21 it is. Petitioner's assumming full responsibility is no evidence that
 22 he continues to pose an unreasonable risk to public safety. See
 23 In re Wen Lee, (2006 DJDAR 13961 at 13965).

24 86. The parole board's reliance on a prisoner's failure to accept full
 25 responsibility for his crime violate Penal Code, § 5011(b). See
 26 In re Dannenberg,

27 87. There is nothing rationally supporting a conclusion that petitioner's
 28 acceptance of full responsibility, weigh infavor of his parole. And
 29 beside, the record shows over a decade of fully accepted responsibility.
 30 See also In re Elkin, (2006) Court of Appeals, 1st Appellate District,
 31 p. 20.

1 88. The (2006) parole board panel Seventh reason for determining petitioner
2 unsuitable for parole release was that petitioner (Gains are recent).
3 The panel stated: "... The panel also notes that your gains are recent,
4 ..." See Exhibit "A", p. 74: lines 11-12. "... However, those positive
5 aspects of your behavior do not outweigh the factors of unsuitability."
6 See Exhibit "A", P. 74: lines 18-19.

7 89. There are no parole statutes nor regulations authorizing a board panel
8 to deny parole release to a prisoner based on recent gains.

9 90. Moreover, in one case the court found no evidence in the record to
10 support the panel's recitations that the gains achieved by petitioner,
11 who has been imprisoned longer than the prison terms prescribed for
12 most murder's, were too "recent", ... that his recent prison record was
13 poor. In re Mora, (2007) Superior Court, Case No. (SWHSS 8785). Please
14 take judicial notice.

15 91. In addition, the overarching consideration in determining whether to grant
16 parole is public safety. In re Scott, (2005) 133 Cal.App.4th 573, 591,
17 34 Cal.Rptr.3d 905.

18 92. The parole board had no evidence to support their decision that
19 petitioner is unsuitable for parole. That action caused prejudice to
20 petitioner where they worked toward petitioner's actual and substantial
21 disadvantage, infecting his entire hearing with error's of
22 constitutional dimension. See People v. Modesto, (1963) 59 Cal.2d 722;
23 Chapman v. California, (1967) 386 U.S. 18. Moreover, it is a
24 Fundamental Miscarriage of Justice. See Harris v. Nelson, (1969) 394
25 U.S. 286, 291, 22 L.Ed.2d 281, 286.

26 93. A remand back to the parole board would be futile. As petitioner's
27 (26-Actual-Years-In-Custody) thus far is beyond the (12-years) Primary
28 Term the parole board should have established for his individual

1 culpability in the commitment offenses. See also People v. Morse,
2 (1964) 60 Cal.2d 631, 648, 36 Cal.Rptr. 201, 388 P.2d 33; and beyond
3 the (14-Years) aggravated term of the parole board's matrix (15 CCR)
4 § 2282(c)-(B)-(II), Category [10-12-14] years. In addition,
5 petitioner is also beyond the (5-year) Parole Period after a release,
6 effective at the time of his offense Penal Code, former § 3000;
7 (15 CCR) § 2515. There's nothing that the parole board can do shorter
8 than an immediate and unconditional release to the community.

9 94. Therefore, this court must find that the parole board had no evidence
10 supported by the record that petitioner was unsuitable for parole
11 release.

12 b.

13 The parole board panel failed to set a primary term
14 constitutionally proportionate and uniform to
15 petitioner's individual culpability in the commitment
offenses.

16 95. Petitioner questions whether in the parole board's administration in
17 considering petitioner's application for parole release it has imposed
18 a constitutionally disproportionate punishment. People v. Wingo, (1975)
19 14 Cal.3d p. 169, 121 Cal.Rptr. 97, 534 P.2d 1001.

20 96. The Indeterminate Sentencing Law (ISL) is not now being administered in
21 a manner which offers assurance that persons subject thereto will have
22 their terms fixed at a number of years proportionate to their
23 individual culpability. People v. Wingo, supra, ante, p. 169, 121
24 Cal.Rptr. 97, 534 P.2d 1001, or, that their terms will be fixed with
25 sufficient promptness to permit any request review of their
26 proportionality to be accomplished before the affected individual have
27 been imprisoned beyond the constitutionally permitted term. See
28 In re Rodriguez, (1975) 122 Cal.Rptr. 552, 560.

1 97. The parole board must fix terms within the statutory range that are not
2 disproportionate to the culpability of the individual offender.

3 In re Rodriguez, (1975) 122 Cal.Rptr. 552, 561.

4 98. A prisoner committed under a statute having a maximum term which may be
5 disproportionate to his individual culpability has a right to have his
6 term fixed at a number of years that is proportionate to his offense.

7 People v. Wingo, supra, ante p. 169. See also In re Rodriguez, (1975)
8 122 Cal.Rptr. 552, 561.

9 99. The basic term-fixing responsibility of the parole board is independent
10 of the parole board's power to grant parole and of its discretionary
11 power to alter reduce the term thus fixed, which fixed, constitutionally
12 proportionate term we shall hereafter refer to as the primary term.

13 In re Rodriguez, (1975) Id. at 561.

14 100. The parole board has not distinguished its responsibility to fix the
15 primary term of the prisoners subject to the (ISL) from its parole-
16 granting function, and because it has determined that petitioner is not
17 ready for parole, it has either failed to fulfill its obligation to fix
18 petitioner's term at a number of years proportionate to his offense,
19 or, having impliedly fixed it at life (People v. Wingo, supra, ante,
20 pp. 169, 183, 121 Cal.Rptr. 97, 534 P.2d 1001). See also In re
21 Rodriguez, supra, at 562.

22 101. The primary term must reflect the circumstances existing at the time of
23 the offense ... the rule that the measure of the constitutionality of
24 punishment for crime is individual culpability is well established in
25 the law of this state. In re Rodriguez, (1975) 122 Cal.Rptr. 552, 562.

26 102. The primary term is the maximum period of time which is constitutionally
27 proportionate to the individual's culpability for the crime. Primary
28 terms are not fixed for crimes punished by determinate sentences. See

1 the former parole board's regulations: Adult Authority and Women's
2 Board of Terms and Parole, Title 15, (Register 76, No. 21-5-22-1978),
3 § 2100.

4 103. A secondary term is any term fixed by the parole board shorter than
5 the primary term.

6 104. From the term set the hearing panel will deduct any credits it awards
7 to the prisoner for time served in prison on the life crime. See
8 (15 CCR) §§ 2290, 2410-2411, 2429, and 2439; California Criminal Law
9 Procedure and Practice, (6th ed.) (2002) p. 1696, § 57.19.

10 105. The parole board matrixes establish three tiers of terms for the
11 various types of offenses, based on how the crime was committed, the
12 injury inflicted and the relationship between the victim and the
13 prisoner ... The regulations also set out particular factors in
14 mitigation (15 CCR) § 2284, and aggravation (15 CCR) § 2283.

15 106. The parole board regulation provides matrixes for Kidnap for Robbery.
16 Petitioner's offense fits within the matrix of [10-12-14] years,
17 see (15 CCR) § 2282 (c)-(B)-(II).

18 107. And the parole board is required to set the primary term at the
19 Mid-Term of (12-years): unless additional facts are found in mitigation
20 or aggravation. See In re Cunningham, 127 S.Ct. 856 (2007).

21 108. In addition, the parole statutes also mandates proportionate and
22 uniform prison-terms in setting parole release dates; in light of
23 individual culpability for the commitment offense. Penal Code, § 3041,
24 3041.5. See also the California Criminal Law Procedure and Practice,
25 (6th ed.) (2002) p. 1695, § 57.19.

26 109. There are many examples of offenses more egregious including 1st degree
27 murder's whom have been given parole, release dates or released. For
28 example: in a case a prisoner in 1966, was sentenced to death for two

1 counts of first degree murder, with several other special circumstances.
 2 He came off death row - to life with the possibility of parole. And
 3 in 1979, after serving (13-years) he was found to be parole - ready.
 4 Board stats., show he served (17-years). In re Stanworth, (1982) 33
 5 Cal.3d 176. And in another case, in 1977, a 16-year-old tried as an
 6 adult, was convicted of two counts of second degree murder and one count
 7 of first degree murder. He was sentenced to three concurrent sentences
 8 five years to life for each of the second degree murder convictions,
 9 and life for the first degree murder conviction. His minimum eligible
 10 parole date (MEPD) was set at August 25, 1983. See In re Barker,
 11 DAR 2007 DJDAR 7548.

12 110. Thus, in the instant case, the parole board's failure to set a primary
 13 term constitutionally proportionate and uniform to petitioner's
 14 individual culpability in the commitment offenses; caused prejudice to
 15 petitioner where they worked toward petitioner's actual and substantial
 16 disadvantage, infecting his entire hearing with error's of
 17 constitutional dimension. See People v. Modesto, (1963) 59 Cal.2d
 18 722; Chapman v. California, (1967) 386 U.S. 18. Moreover, it is a
 19 Fundamental Miscarriage of Justice. See Harris v. Nelson, (1969) 394
 20 U.S. 286, 291, 22 L.Ed.2d 281, 286.

21 111. Again, a remand back to the parole board would be futile; because,
 22 petitioner's (26-Actual-years-in-custody) thus far is beyond the
 23 (12-years) primary term the parole board should have set for his
 24 individual culpability in the commitment offenses. See also
 25 People v. Morse, (1964) 60 Cal.2d 631, 648, 36 Cal.Rptr. 201, 388 P.2d
 26 33; as well, beyond the (14-years) aggravated term within the parole
 27 board's matrix (15 CCR) § 2282 (c)-(B)-(II), Category [10-12-14] years,
 28 and beyond the (5-years) Parole Period after a release, effective at

1 the time of his offense Penal Code, former § 3000; (15 CCR) § 2515.

2 There's nothing that the board can do shorter than an immediate and
3 unconditional release to the community.

4 112. Therefore, this court must order petitioner's immediate and unconditional
5 release from custody to the community. See McQuillion v. Duncan, 342
6 F.3d 1012, 1015 (9th Cir. 2003).

7 C.

8 The parole board's set-off (intervals) between parole
9 consideration hearings at two years is an application
10 of parole statutes, regulations more onerous than
those in place at the time of petitioner's commitment
offense violates his due process rights.

11 113. The (2006) parole board panel reasosn for determining that petitioner
12 would not be suitable for parole release within the next two years was
13 based on two of the same factor's as their reasoning for finding
14 petitioner unsuitable. The commitment offense, see Exhibit "A", p. 74:
15 lines 19-26, p. 75: lines 1-19: institutional behavior, see Exhibit "A",
16 p. 75: lines 21-23, p. 76: lines 1-6.

17 114. In (1981) however, the California Legislature had authorized the parole
18 board to defer subsequent suitability hearings for up to three years
19 if the prisoner had been convicted of "more than one offense which
20 involves the taking of a life" and if the Board "finds that it is not
21 reasonable to expect that parole would be granted at a hearing during
22 the following years and states the basis for the findings." Penal Code,
23 § 3041(b)-(2).

24 115. And in (1982), the Legislature amended section 3041.5, to provide an
25 exception to the annual parole suitability hearing requirement. The
26 amendment permits the Board of Prison Terms (Board) to "schedule the
27 next hearing no later than ... two years after any hearing at which
28 parole is denied if the board finds that it is not reasonable to

1 expect that parole would be granted at a hearing during the following
2 year and states the basis for the finding" (Penal Code, § 3041.5,
3 subd. (b)-(2)-(A), as amended by Stats..(1982), Ch. 1435, § 1, p. 5474.)
4 See also In re Jackson, 216 Cal.Rptr. 760, at 761.

5 116. First, the amendment applies only to a class of prisoner's for whom the
6 likelihood of release on parole is quite remote. The amendment enable
7 the parole board to extend the time between suitability hearings only
8 for those prisoner's who have been convicted of "more than one offense
9 which involves the taking of a life." Penal Code, § 3041.5.(b)-(2);
10 California Department of Corrections v. Morales, (1995) 115 S. Ct. 1597,
11 1603.

12 117. In the instant case, at the time of petitioner's offenses, the
13 statutory law required Annual parole consideration hearings after a
14 prisoner is denied parole release. See Penal Code former §§ 3041, 3041.5,
15 etc.

16 118. Thereafter, the series of amendments to § 3041.5: increasing the
17 set-off (intervals) from (1-year) to (5-years) between a prisoner's
18 parole consideration hearings is intended for a certain category of
19 prisoner's whom offenses are more egregious, more than one offense
20 involving the taking of a life, and more than one murder.

21 119. The parole board's application of the amended statute to petitioner
22 setting-off (intervals) between parole consideration hearings on three
23 separate occasions is an Ex Post Facto application of the law to
24 petitioner's commitment offenses.

25 120. Moreover, the parole board violated the rules of evidence (to supply
26 a deficiency of legal proof) by using the same reasoning that denied
27 parole suitability to also set-off increase the intervals between
28 hearings, when the existing law requires a separate decision and

1 reasoning. See also In re Jackson, (1985) 39 Cal.3d 464, at 474.

2 121. Furthermore, the parole board's (2-year) denial was not supported by the
 3 record. A multi-year denial is based upon a finding that it is not
 4 reasonable to expect that a suitability finding will be possible during
 5 the interval period. The panel did not make this requisite finding based
 6 on any evidence. In re Jackson, (1985) 39 Cal.3d 464, at 474.

7 122. The parole board's actions in setting-off petitioner's next parole
 8 consideration hearing is prejudicial affecting petitioner adversely, and
 9 is a fundamental miscarriage of justice. Absent the error's and
 10 prejudice; petitioner would have been release many years ago.

11 123. This court must grant the Petition for a Writ of Habeas Corpus, and
 12 reverse the parole board's dession in setting-off petitioner's next
 13 parole consideration hearing for (2-years), and order petitioner's
 14 immediate and unconditional release from custody to the community.

15 **Ground**

16 2.

17 THE BOARD OF PAROLE HEARINGS (BPH) IMPOSED A CRUEL
 18 AND UNUSUAL PUNISHMENT WHEN THE BOARD PANEL FAILED
 19 TO SET PETITIONER'S PRIMARY TERM CONSTITUTIONALLY
 PROPORTIONATE AND UNIFORM TO HIS INDIVIDUAL
 CULPABILITY IN THE COMMITMENT OFFENSES.

20 124. The California Constitution, Article I, § 1 sets forth:

21 "Cruel or unusual punishment may not be inflicted
 or excessive fines imposed."

22 And the 8TH Amendment to the United States Constitution, sets forth:

23 "Excessive bail shall not be required, nor excessive
 fines imposed, Nor cruel and unusual punishments
 inflicted."

24 125. A prisoner committed under a statute having a maximum term which may be
 25 disproportionate to his individual culpability has a right to have his
 26 term fixed at a number of years that is proportionate to his offense.

27 People v. Wingo, (1975) 14 Cal.3d 169, 121 Cal.Rptr. 97, 534 P.2d 1001;

1 In re Rodriguez, (1975) 122 Cal.Rptr. 552, at 561, 14 Cal.3d at 652.

2 The language of the Indeterminate Sentence Law does not require a
 3 contrary conclusion. The oft-stated rule that a prisoner has no right
 4 to a term fixed at less than maximum (In re Schoengarth, *supra*, 66
 5 Cal.2d 295, 57 Cal.Rptr. 600, 425 P.2d 200; In re Cowen, (1946) 27
 6 Cal.2d 637, 641, 166 P.2d 279) is therefore subject to the overriding
 7 constitutionally compelled qualification that the maximum may not be
 8 disproportionate to the individual prisoner's offense. (People v. Wingo,
 9 *supra*, *ante*, pp. 169, 182, 121 Cal.Rptr. 97, 534 P.2d 1001.)

10 126. This basic term-fixing responsibility of the parole board is independent
 11 of the Board's power to grant parole and of its discretionary power to
 12 later reduce the term thus fixed, which fixed, constitutionally
 13 proportionate, term we shall here-after refer to as the "Primary Term."
 14 The parole board's discretionary power also permits the Board to retain
 15 a prisoner for the full primary term if his release might pose a danger
 16 to society (People v. Morse, (1964) 60 Cal.2d 631, 648, 36 Cal.Rptr. 201,
 17 388 P.2d 33) and to revoke parole, rescind an unexecuted grant of parole
 18 and refix a reduced term at a greater number of years up to the
 19 primary term if the prisoner or parolee engages in conduct which
 20 affords cause to believe he cannot or will not conform to the conditions
 21 of parole, or would pose a danger to society if free. Penal Code, former
 22 (§§ 3020, 3060; In re McLain, (1960) 55 Cal.2d 78, 9 Cal.Rptr. 824,
 23 357 P.2d 1080. See also In re Prewit, *supra*, 8 Cal.3d 470, 105 Cal.Rptr.
 24 318, 503 P.2d 1326.) These considerations, however, are based in large
 25 measure on occurrences subsequent to the commission of the offense.
 26 In re Rodriguez, (1975) 122 Cal.Rptr. 552, at 562.

27 127. Conversely, the primary term must reflect the circumstances existing at
 28 the time of the offense. Both the 8TH Amendment and Article I, Section

17, proscribe punishment which is disproportionate to the particular
offense. A penalty violates the cruel or unusual punishment clause if
it is "an extraordinary penalty for a crime of ordinary gravity,
committed under ordinary circumstances." See In re Finley, (1905)

1 Cal.App. 198, 201, 81 P. 1041. Thus the rule that the measure of the
constitutionality of punishment for crime is individual culpability
is well established in the law of this state.

128. In the instant case, the parole board appears not to have recognized
this distinction. Because it has not distinguished its responsibility
to fix the primary term of prisoners subject to the indeterminate
sentence law from its parole-granting function, and because it has
determined that petitioner is not ready for parole, it has either
failed to fulfill its obligation to fix petitioner's term at a number
of years proportionate to his offense, or, having impliedly fixed it at
life (People v. Wingo, supra, ante, pp. 169, 183, 121 Cal.Rptr. 97,
534 P.2d 1001), has imposed excessive punishment on him.

129. The (26-Years) of imprisonment served by petitioner are excessive and
disproportionate punishment by application of the In re Lynch, (1972)
8 Cal.3d 410, 105 Cal.Rptr. 217, 503 P.2d 912; In re Foss, (1974) 10 Cal.3d 910,
112 Cal.Rptr. 649, 519 P.2d 1073; and In re Rodriguez, (1975) 14 Cal.3d
639, 122 Cal.Rptr. 552, analysis briefly referred to above. Since the
question posed involves "proportionality" as measured by constitutional
standards of cruel or unusual punishment under Article I, Section 17,
of the California Constitution, these techniques are appropriate not
only to the examination of statutes challenged on their face, but also
to terms as fixed by the parole board in individual cases.

130. Further, the particular characteristics of this offender at the time of
the offense does not justify (26-Years) thus far of imprisonment. When

1 he go before the parole board in (2009) it will be (28-years) he
 2 served, without considering the fact that he is entitled to a reduction
 3 of sentence work time / good time credits. As mentioned above he was
 4 only (17-years-old) at the time of the offense. His conduct was
 5 explained in part by his limited intelligence. Thus, it appears that
 6 neither the circumstances of his offense nor his personal characteristics
 7 establish a danger to society sufficient to justify such a prolonged
 8 period of imprisonment. See In re Rodriguez, 122 Cal.Rptr. 552, at 564.

9 131. In the instant case, petitioner was sentenced to two (7-years-to-life
 10 ~~"with"-the-possibility-of-parole~~); other life prisoner's sentenced to
 11 greater terms: (15-years-to-life), (25-years-to-life), and more
 12 egregious offenses have been granted parole release, released, and
 13 some released from the courts, this is sufficient to establish that
 14 measured by this Lynch, technique, the term already served by petitioner
 15 is disproportionate to his offense, since he would have already served
 16 the maximum (12-years) primary-term. Petitioner was sentenced to
 17 (7-years-to-Life-"with"-the-possibility-of-parole); the legislature's
 18 intent for a real possibility, not an empty promise, nor Life-without-
 19 the-possibility-of-parole, nor the death penalty. Considering
 20 substantial amount of life prisoner's has gotten older, and their health
 21 has deteriorated, and are dying here in prison in an alarming rate without
 22 being given a real possibility at parole release; converting there
 23 sentence to life without or the death penalty.

24 132. Petitioner has already served a term which by any of the Lynch
 25 criteria is disproportionate to his offense. His continued imprisonment
 26 thus constitutes both cruel and unusual punishment within the meaning
 27 of Article I, Section 17, of the California Constitution. He is
 28 therefore entitled to be discharged from the term under which he is

imprisoned.

133. These error's made by the parole board in their failure to consider substantial evidence that petitioner is suitable for parole release, failing to set a parole release date constitutionally proportionate to his individual culpability in the commitment offense, failure to release petitioner at his primary-term of (12-years), failure to set-off his next parole consideration hearing for only (1-year); resulted in prejudice to petitioner, the error's worked toward petitioner's actual and substantial disadvantage, infecting his entire hearing with error's of constitutional demention; denying petitioner of a fair parole consideration hearing. Absent these error's the result of the hearing would have been substantially different from that which was actually reached by the parole baord; because, petitioner would have been immediately and unconditionally released from custody to the community. The error's and prejudice by the parole board also constitutes a Fundamental Miscarriage of Justice.

134. This court must grant the Petition for writ of Habeas Corpus, reverse the decisions made by the parole board, and the court should order petitioner's immediate and unconditional release of petitioner from custody to the community.

Ground

三

THE BOARD OF PAROLE HEARINGS (BPH) DENIED PETITIONER OF THE EQUAL PROTECTIONS OF THE LAWS WHEN THE BOARD PANEL TREATED PETITIONER DIFFERENTLY FROM SIMILARLY SITUATED PRISONER'S WITH THE SAME OFFENSES.

135. Petitioner is entitled to the right to the Equal Protection of the law. Similar situated prisoners' must receive similar treatment under the law. A denial of equal protection is prohibited under the California

Constitution, Article I, § 7(a), 1ST and 14TH Amendments of the United States Constitution.

136. And, the United States Constitution, 14TH, Amendment sets forth:

"No state shall ... deny to any person within its jurisdiction to equal protection of the laws."

137. The principle of equal protection forbids discrimination or classification that is unjustified or "invidious." Ferguson v. Skraipa, 372 U.S. 726, 732, 83 S.Ct. 1028 (1963).

138. Thus, equal protection of the laws means that no person or class of persons shall be denied the same protection of the laws which is enjoyed by other persons or other classes in like circumstances in their lives, liberty, property, and in their pursuit of happiness.

People v. Superior Court (Perez) (1999) 75 Cal.App.4th 394, 89 Cal.Rptr. 2d 326.

139. Therefore, the 14TH Amendment of the United States Constitution doctrine simply means that similarly situated person must receive similar treatment under the law. Dorsey v. Sulomon, 435 F.Supp. 725, (D. C. Md.).

140. Prisoner's have a right to equal protection of the law. Stewart v. Rhodes, 473 F.Supp. 1185, (1979).

141. And do not forfeit all equal protection rights upon incarceration
Lee v. Washington, 390 U.S. 333-334 (1968).

142. If a prisoner is singled out for disparate treatment and if the disparity is sufficiently severe, his liberty is at stake. Hewitt v. Helms, 74 L.Ed.2d 675, at 698, (1983).

143. When the state singles out one person for adverse treatment significantly different from that imposed on the community at large. For an essential attribute of the liberty protected by the constitution

1 is the right to the same kind of treatment as the state provides to
2 other similarly situated persons. Hewitt v. Helms, 74 L.Ed.2d 675, 697,
3 (1983).

4 144. Thus, privileges granted to some inmates may not be arbitrarily denied
5 to other similarly situated inmates. Baumann v. Arizona Dep't. of
6 Corrections, 754 F.2d 841, (1985); Brown v. State, 117 Ariz. 476, 573
7 P.2d 876.

8 145. There are no rational basis for the dissimilar treatment. Hosna v.
9 Groose, 80 F.3d 298, 304, (8th Cir.)

10 146. And are thereby entitled to protection from uneven or discriminatory
11 treatment. Hill v. Hutto, 537 F.Supp. 1185, (1982).

12 147. In the instant case, the parole board treated petitioner differently
13 from similarly situated prisoner's when it failed to consider
14 substantial evidence supporting petitioner's suitability for parole
15 release, failed to set a parole release date constitutionally
16 proportionate to his individual culpability in the commitment offense,
17 failed to release petitioner on his primary-term of (12-years), and on
18 three separate occasions failed to set-off petitioner's next parole
19 consideration hearing for only (1-year); treated petitioner differently
20 from other similarly situated prisoner's; denied petitioner of the
21 Equal Protections of the laws.

22 148. These error's made by the parole board resulted in prejudices to
23 petitioner. They worked toward actual and substantial disadvantage,
24 infecting his entire hearing with error's of constitutional demention;
25 deny petitioner of a fair parole consideration hearing. Absent these
26 error's the result of the hearing would have been substantially
27 different from that which was actaully reached by the parole board;
28 because, petitioner would have been released unconditionally from

1 custody to the community. These error's and prejudices also constitute
 2 a Fundamental Miscarrage of Justice.

3 149. This court must grant the Petition for Writ of Habeas Corpus, reverse
 4 the decisions of the parole board, and order the immediate and
 5 unconditional release of petitioner from custody to the community.

6 **Ground**

7 4

8 THE BOARD OF PAROLE HEARINGS (BPH) ABUSED ITS DISCRETION
 9 WHEN THE BOARD PANEL FAILED TO ACT WITHIN ITS DISCRETION
 10 TO CONSIDER SUBSTANTIAL EVIDENCE SUPPORTING PETITIONER'S
 11 SUITABILITY FOR PAROLE RELEASE AND EXCEEDED ITS
 12 DISCRETION IN ACTING BEYOND ITS AUTHORITY.

13 150. The parole board has the legal discretion to determine and redetermine
 14 prison-terms in setting parole release dates.

15 151. Although, that discretion is broad, but it is not absolute. Statutory
 16 and parole board's regulations limits that discretion in providing
 17 procedural protections to protect a life prisoner's rights and liberty
 18 interest in release. See also In re Minnis, (1972) 7 Cal.3d 639, 645,
 19 102 Cal.Rptr. 749, 498 P.2d 997; In re McLain, (1960) 55 Cal.2d 78, 87,
 20 9 Cal.Rptr. 824, 357 P.2d 1080; In re Powell, (1986) 232 Cal.Rptr. 553,
 21 at 559.

22 152. In the instant case, the parole board has violated those limits of it s
 23 legal discretion, failing to find petitioner suitable for parole
 24 release, failing to set a parole release date constitutionally
 25 proportionate and uniform to his individual culpability in the
 commitment offense, and in setting-off petitioner's next parole
 consideration hearing for (2-years) on three different occasions.

26 153. Next, the parole board has the discretion to set-off petitioner's next
 27 parole consideration hearings only for (1-year), in light of the time
 28 of petitioner's commitment offense (1981). Penal Code, former §§ 3041,

1 3041.5; California Department of Corections v. Morales, (1995) 514 U.S.
2 499, fn. 1, 131 L.Ed.2d 588, 115 S.Ct. 1597; In re Jackson, 216 Cal.Rptr.
3 760. See also California Welfare Rights Organization v. Brian, (1974)
4 11 Cal.3d 237, 242, 113 Cal.Rptr. 154, 520 P.2d 970; Morris v. Williams,
5 (1976) 67 Cal.2d 733, 738, 63 Cal.Rptr. 689, 433 P.2d 697; In re
6 Stanley, (1976) 54 Cal.App.3d 1030, at 1036.

7 154. In the instant case, the parole board has abused it's legal discretion
8 in failing to find petitioner suitable for parole release, failing to
9 set a primary term for petitioner, and in setting-off petitioner's
10 next parole consideration hearing for more than (1-year).

11 155. Those are prejudicial error's, and a Fundamental Miscarriage of Justice.
12 Absent the excessive and illegal intervals between parole consideration
13 hearings petitioner would have been released several years ago.

14 156. This court must grant the Petition for Writ of Habeas Corpus, reverse
15 the actions of the parole board, and order the immediate and
16 unconditional release of petitioner from custody to the community.

17 Ground

18 5

19 THE BOARD OF PAROLE HEARINGS (BPH) RENDERED
20 ARBITRARY AND CAPRICIOUS FINDINGS AND
21 DECISIONS AT PETITIONER'S PAROLE CONSIDERATION
22 HEARING.

23 157. The parole board unreasonably and without evidence found petitioner
24 unsuitable for parole release, decided not to set his primary term
25 for his individual culpability in the commitment offenses, and further
26 decided to set-off his next parole consideration hearing for two years
27 instead of one year is arbitrary and capricious.

28 158. An unreasonable decision without cause based upon the principles of law
for parole consideration hearings lacks any support in evidence, when
38.

1 the facts do not reasonably justify the conclusion. Without an adequate
2 determination of the principles of law; resulting in parole denial,
3 failing to fix a primary term, setting-off his next hearing for two
4 years, and continuously retaining petitioner in custody excessively are
5 arbitrary and capricious decisions and actions.

6 159. The term 'arbitrary and capricious' has been defined to mean an act done
7 without adequate determining principle; not found in the nature of
8 things; not done or acting according to reason or judgment; an
9 unnecessary act. U. S. v. Carmack, (1946) 67 S.Ct. 252, 329 U.S. 230.
10 See also O'Boyle v. Coe, D.C., 155 F.Supp. 581, 584 (1957).

11 160. The terms 'arbitrary' and 'capricious' embraces a concept which emerges
12 from the Due Process Clause of the 5TH and 14TH Amendments of the
13 United States Constitution and operates to guarantee that the acts of
14 government will be guaranteed on established legal principles and have
15 a rational factual basis. A decision is arbitrary and capricious when
16 it is not supported by evidence or when there is no reasonable
17 jurisdiction for the decision. Canty v. Board of Ed. City of New York,
18 (1970) 312 F.Supp. 254.

19 161. Arbitrary and capricious within section of Administrative Procedure Act
20 effect that order of commission may be invalidated if it is arbitrary
21 and capricious mean without reasonable basis. Administrative Procedure
22 Act, § 10; 5 U.S.A. § 1009. Eastern Central Motor Carries Ass'n. v.
23 U.S., (1965) 239 F.Supp. 591.

24 162. Where discretion is conferred on an administrative officer it must be
25 honestly exercised and if the administrative decision is arbitrary or
26 capricious or in bad faith the courts have power to review it and set
27 it aside. Gadsden v. U.S., (1948) 78 F.Supp. 126. And is also subject
28 to review when it is arbitrary or capricious or where it (the

error of law. Navajo Freight Lines, Inc. v. U.S., (1970) 320 F.Supp.

318.

163. Moreover, an arbitrary act would be one performed without adequate determination of principle an one not founded in the nature of things.

Huey v. Davis, 556 S.W.2d 860, 865 (Tex. Civ. App.)

164. And without fair, solid, and substantial cause; that is, without cause based upon the law is arbitrary. United States v. Lotempio, 58 F.2d 358, 359. (D.C.N.Y.)

165. Furthermore, an action is arbitrary not only when it is capricious, but when it lacks substantial support in evidence, when facts do not reasonably justify conclusion. Hollon v. Pierce, (1967) 257 Cal.App.2d 468, 64 Cal.Rptr. 808. A decision made without any supporting evidence would be arbitrary and capricious. See People v. Cluff, (2001) 87 Cal.App.4th 991, 998.

166. Therefore, the final responsibility for interpreting the law rest with the courts. *Terhune v. Superior Court*, (1998) Cal.App.4th at p. 873.

167. In addition, the court's may properly determine whether the parole board's handling of parole application is consistent with the parole policies established by the legislature. In re Minnis, (1972) 7 Cal.3d at pp. 646-647.

168. The judicial oversight must be extensive enough to protect the limited right of parole applicant's to be free from an arbitrary parole decision ... and to something more than mere pro forma consideration.

¹¹ *In re Sturm*, (1974) 11 Cal.3d at p. 268.

169. In the instant case, the parole board panel decisions and actions are arbitrary and capricious. Whereby the board panel finding of petitioner

unsuitable for parole release is not supported by evidence and the facts do not support the conclusion. Moreover, the panels failure to set petitioner's primary term is without adequate determination of the principles of law. Furthermore, the parole board's panel action in setting petitioner's next parole consideration hearing for two years instead of one year and continuously retaining petitioner in custody excessively is unreasonable and violating petitioner's due process rights under the 5TH and 14TH Amendments of the United States Constitution.

170. The parole board panel errored in not considering substantial evidence showing petitioner is suitable for parole release, and setting of a primary term. As well, if a denial they errored in denying him (2-years) instead of (1-year). These error's has caused petitioner to suffer a significant hardship. He had already suffered overdue for release in addition to continuously doing excessive imprisonment is prejudicial. Had not the error's of the parole board panelloccurred petitioner would have been found suitable for parole release, a setting of his primary term in accord with the constitutional proportionate and uniform to his individual culpability in the commitment offences.

171. Substantial prejudice is a handicap suffered by the parolee and caused by a delay which could reasonably influence the outcome of the hearing. (15 CCR) § 4978.

172. And the test for whether error was prejudicial is whether it is reasonably probable that, in the absence of the error, result would have been more favorable to the defendant. People v. Crone, (1997)

62 Cal.Rptr. 2d 607, 54 Cal.App.4th 71.

173. A judgment may be reversed because of error only when it appears from record that error was prejudicial, caused substantial injury, and

1 that a different result would have been probable if error had not
 2 occurred. People v. Walker, (1948) 198 P.2d 534, 88 Cal.App.2d 265.

3 174. Petitioner has also suffered a Fundamental Miscarriage of Justice.

4 175. This Honorable Court must grant the relief sought. The court should
 5 grant the Petition for Writ of Habeas Corpus, and reverse and set
 6 aside the parole board decisions and actions, and the court should
 7 order the immediate and unconditional release of petitioner from
 8 custody to the community; wherefore, petitioner is well overdue
 9 for release; beyond the (12-Years) Primary Term, and beyond the
 10 (5-Years) Parole Period after release.

11 ~~Ground~~

12 6

13 APPPOINTED COUNSEL DENIED PETITIONER OF THE EFFECTIVE
 14 ASSISTANCE OF COUNSEL AT THE PAROLE CONSIDERATION
 15 HEARING.

16 176. The parole board appointed counsel to represent petitioner at his
 17 (2006) Parole Consideration Hearing.

18 177. The 6TH Amendment of the United States Constitution guarantees the
 19 right to the effective assistance of counsel in criminal prosecutions.
 20 McMann v. Richardson, 397 U.S. 759, 771 n. 14 (1970). See also the
 21 California Constitution, Article I, § 15.

22 178. The right to effective assistance applies to the appointed counsel.
 23 Cuyler v. Sullivan, 446 U.S. 335, 344-45, (1980).

24 179. And the proper standard for attorney performance is that of reasonably
 25 effective assistance. See Trapnell v. United States, 725 F.2d at 151-
 152.

26 180. In deciding whether a counsel's performance was ineffective, a court
 27 must consider the totality of the circumstances. Strickland v.
 28 Washington, 466 U.S. at 690, (1984).

1 181. A two-prong test was established by the court to evaluate ineffective
 2 assistance claims: (1) that counsel's performance fell below an
 3 objective standard of reasonableness Stricklan, *Id.* at 697-88; and
 4 (2) that counsel's deficient performance prejudiced the defendant
 5 resulting in an unreliable or fundamentally unfair outcome of the
 6 proceeding, *Id.* at 687.

7 182. In the instant case, Appointed Counsel failed to provide an adequate,
 8 reasonable and meaningful legal representation, resulting in prejudice
 9 to the petitioner in an unreliable and fundamentally unfair outcome
 10 of the proceeding.

11 183. Appointed Counsel failed to conduct any form of an investigation in
 12 respect to legal research to familiarize herself with the applicable
 13 parole laws governing life prisoner's Parole Consideration Hearings
 14 and parole release. Appointed Counsel ineffective when failed to
 15 engage in reasonable investigation. Hall v. Washington, 106 F.3d
 16 742, 749 (7th Cir.) See also Eggleson v. U.S., 798 F.2d 374
 17 (9th Cir. 1986); Burger v. Kemp, 483 U.S. 776, 987 L.Ed.2d 638,
 18 107 S.Ct. 3114 (1987). When Appointed Counsel failed to conduct any
 19 legal research. Groseclose v. Bell, 130 F.3d 1161, 1170 (6th Cir.
 20 1997). In addition, Appointed Counsel ineffective when failed to
 21 investigate and present any mitigating evidence during the sentencing
 22 phase ... conduct not reasonable strategic decision but abdication of
 23 advocacy. Austin v. Bell, 126 F.3d 843, 848-49 (6th Cir. 1997).

24 Moreover, when counsel failed to conduct any pre-hearing discovery ...
 25 because unreasonable and below prevailing professional norms. Kimmelman
 26 v. Morrison, 477 U.S. 365, 385 (1986).

27 184. Appointed Counsel failed to object to the District Attorney's comments.

1 See Exhibit "A", p. 62-65; Weygandt v. Ducharme, 774 F.2d 1491
2 (9th Cir. 1985).

3 185. Counsel failed to argue any legal principals and precedents at closing.

4 See Exhibit "A", p. 62-65. Compare Harris v. Wood, 64 F.3d 1432, 1438
5 (9th Cir. 1995).

6 186. Appointed Counsel is required to advise an indigent petitioner on
7 whether arguably meritorious grounds exist for reversal, or
8 modification of the judgement on appeal. California Penal Code,
9 § 1240.1.(a).

10 187. And ineffective assistance when counsel failed to file a direct appeal
11 notwithstanding likelihood of success on appeal. U. S. v. Peak, 992
12 F.2d 39, 41 (4th Cir. 1993).

13 188. Appointed Counsel failed to raise any crucial assignments of error
14 that arguably might have resulted in reversal. In re Smith, (1970)
15 3 Cal.3d 192, 203, 90 Cal.Rptr. 1, 474 P.2d 969.

16 189. Furthermore, the cummulative error's included counsel's failure to
17 present mitigating evidence in the penalty phase. Mak v. Blodgett,
18 970 F.2d 614, 622 (9th Cir. 1992).

19 190. Moreover, a cummulative effect of a single counsel's errors, is an
20 inadequate pre-hearing interview. Harris v. Wood, 64 F.3d 1432, 1438
21 (9th Cir. 1995).

22 191. In addition, deficiencies found were cummulsatively prejudicial. See
23 Harris, 853 F.Supp. at 1274.

24 192. Appointed Counsel's deficient performance prejudiced petitioner
25 resulting in an unreliable and fundamentally unfair outcome of the
26 proceeding. Strickland v. Washington, 466 U.S. at 687, (1984).

27 193. Prejudice may result from the cummulative impact of multiple
28 deficiencies. Cooper v. Fitzharis, 586 F.2d 1325, 1333 (9th Cir. 1978):

1 Mak v. Blodgett, 970 F.2d 614, (9th Cir. 1992).

2 194. Appointed Counsel's performance falls below an objective standard of
3 reasonableness and her deficient performance caused prejudice to
4 petitioner resulting in an unreliable and fundamentally unfair outcome
5 of the parole hearing. As well, being a Fundamentally Miscarriage of
6 Justice.

7 195. A court may conclude that a single error rendered counsel's assistance
8 ineffective. See Murry v. Carrier, 477 U.S. 478, 496 (1986).

9 196. Petitioner has the right to the effective assistance of counsel at
10 parole consideration hearings. His appointed counsel failed to provide
11 an adequate and meaningful legal representation, where counsel's
12 performance fell below an objective standard of reasonableness, and
13 counsel's deficient performance prejudiced petitioner resulting in an
14 unreliable and fundamentally unfair outcome of the proceeding.

15 Petitioner has suffered a Fundamental Miscarriage of Justice in the
16 ineffective assistance of counsel violating the 6TH Amendment of
17 the United States Constitution. This Honorable Court must grant the
18 relief sought. The Court must grant the Petition for Writ of Habeas
19 Corpus . And it must declare the rights of petitioner. It must order
20 the Board of Parole Hearings to vacate and set aside the (2006)
21 Subsequent Parole Consideration Hearing. Moreover, the court must
22 order the California Department of Corrections and Rehabilitations
23 to immediately and unconditionally release petitioner from custody.

24

25

26

27

28

1 Ground
2
3

7.

3 THE SUPERIOR COURT ERRED IN ITS FACTUAL FINDINGS,
4 ERRED IN ITS APPLICATION OF THE LAWS, ERRED IN
5 DECIDING ONLY PART OF THE CASE, MISMANAGED THIS
6 CASE AND ABUSED ITS DISCRETION, ITS DECISION WAS
7 CONTRARY TO, OR UNREASONABLE APPLICATION OF,
8 CLEARLY ESTABLISHED FEDERAL LAW.

9 A.
10
11

12 The Superior Court erred in its factual findings.

13 197. The Superior Court factual allegations are not correct. The court
14 stated that: "... At an earlier hearing he admitted sodomizing ...",
15 see Exhibit "B", Supeiro Court Minute Order, (8/13/2007) p. 2: lines
16 9 thru 10. In dispute: the court statement is untrue; because,
17 petitioner did not sodomize the victim and he did not admit that at an
18 earlier hearing. See Exhibit "C", Transcript, partial of the earlier
19 Parole Consideration Hearing in question held on (8/2/2004), p. 15:
20 lines 11 thru 12.

21 B.
22
23

24 The Superior Court erred in its application of the laws.

25 198. The Court cited no law to support its decision. It only stated that:
26 "After the courts' review, we determined that there was ample evidence
27 presented to justify such a conclusion. The petitioner presents as an
28 incredibly callous person who has traumatized an innocent woman and
now does not believe he should receive the consequences for such a
violent and heinous crime. There is no evidence that his attorney was
ineffective. See Exhibit "B", p. 2: lines 27 thru 28, and p. 3: lines
1 thru 2.

29 199. Therefore, the Superior Court denied the Petition based solely upon its'
30 personal opinion and relying upon the unchanging facts of the

1 commitment offense that occurred more than (26-years) ago when
2 petitioner was a juvenile.

3 200. The Superior courts' determination and decision is without support of
4 the legal precedent's and principles of law. The Parole Board and the
5 Superior Court did not show some evidence to support their finding of
6 unsuitability nor denying the relief in the Petition.

7 201. The Superior Court further erred in concluding that the parole board
8 had some evidence under the law to support its decision that petitioner
9 is unsuitable for parole release.

10 202. That evidence must have some indicia of reliability . In re Scott, 119
11 Cal.App.4th at P. 899, and suitability determinations must have some
12 rational basis in fact. (In re Elkins, 144 Cal.App.4th at p. 489. See
13 also In re Barker, (2007 DJDAR 7548 at 7555.

14 203. A life term offense or any other offenses underlying an indeterminate
15 sentence Must be particularly egregious to justify the denial of a
16 parole date. Rosenkrantz, 29 Cal.4th at p. 683: IN re Barker, (2007
17 DJDAR at 7558.

18 204. Violence or viciousness ... must be more than minimally necessary to
19 convict In re Dannenberg, 34 Cal.4th at p. 10~~5~~.

20 205. Because it violates Due Process to deny parole where no circumstances
21 of the offense reasonably could be considered more aggravated or
22 violent than the minimum necessary to sustain a conviction for that
23 offense. In re Elkins, 144 Cal.App.4th at p. 497; see also In re Barker,
24 (2007 DJDAR 7558.

25 206. The predictive value of the commitment offense may be very questionable
26 after a long period of time. [Citation] See In re Barker, (2007 DJDAR
27 at p. 7558.

28 207. The Parole Board Regulations, the California Code of Regulations, Title

1 15 (15 CCR) Division 2, shows substantial evidence taht petitioner is
 2 in fact suitable for release. The parole board has no evidence to their
 3 conclusion of unsuitability. IN re Lawrence, (2007) 59 Cal.Rptr.3d
 4 537, at 558, 569.

5 208. The overarching factor determining whether parole should be granted or
 6 denied is whether the criminal poses an unreasonable risk of danger to
 7 society. In re Scott, 133 Cal.App.4th at p. 591; (15 CCR) § ;
 8 In re Lawrence, (2007) 59 Cal.Rptr.3d 537; In re Barker, (2007) 59 Cal.
 9 Rptr.3d 746: In re Lee, 143 Cal.App.4th at P. 1400.

10 209. In cases involving multiple parole suitability hearings over a Long
 11 period of time in which there were repeated denials of parole based
 12 solely on unchanging factors, courts have concluded that a petitioner
 13 was denied due process and was entitled to relief. See, e.g.

14 Rosenkrantz v. Marshall, 444 F.Supp.2d 1063, 1081-1084 (C. D. Cal. 2006)
 15 (finding a due process vioaltion in relying on the cOmmitment offense
 16 in a seventh parole hearing after petitioner had served nearly twenty
 17 years of incarceration. See also Irons v. Carey, 358 F.Supp.2d 936,
 18 947 (D.D. Cal. 2005); Masoner v. State, 2004 WL 1080177, * 1-2 (C.D.
 19 Cal. 2004) see also In re Lawrence, (2007) 59 CAL.Rptr.3d 537.

20 210. And another court ruled that: "... the court concludes that the Board's
 21 decision denying Petitioner parole is not supported by 'some evidence'.
 22 In re Rosenkrantz, (2006) Superior Court, County of Los Angeles,
 23 Case No. (BH003529) p. 1.

24 211. Moreover, "... continual parole denials have been based mainly On the
 25 gravity of the commitment offense, the circumstances of which can
 26 never change. Therefore, the Board's continued sole reLiance on the
 27 commitment offende will essentially convert petitioner's original
 28 sentence of life with the possibility of parole into a sentence of

1 life without the possibility of parole. Petitioner has no chance of
2 obtaining parole unless the Board holds that his crime was not serious
3 enough to warrant a denial of parole. (Irons v. Warden, (E.D. Cal. 2005)
4 358 F.Supp.2d 936, (47.) "See In re Rosenkrantz, (2006) Superior Corut,
5 County of Los Angeles, Case No. (BH003529) P. 3. The Rosenkrantz, court
6 had also stated that he "... has now served in excess of the maximum
7 term for both second degree and first degree murder. Therefore, the
8 commitment offense should no Longer function as a factor for
9 unsuitability and in that case, it should no Longer operate as some
10 evidence to support the Board's parole denial. Petitioner has reached
11 the point in which the denial of parole can no Longer be justified by
12 reliance on his commitment Offense. The Board's continuaul reLiance on
13 the circumstances of the offesne runs contarry to the rehabilitative
14 goals exposed by the prison system and has violated petitioner's due
15 process .

16 Therefore, this court orders that the Petition for Writ of Habeas
17 Corpus be, and hereby is granted. "In re Rosenkrantz, supra at p. 3-4.

18 212. In addition, a Federal Court had ruled that the parole board's continued
19 reliiance upon the nature of an inmate's crime of secoid degree murder
20 to deny the inmate parole violated due process. Rosenkrantz v. Marshall,
21 444 F.Supp.2d 1063 (2006).

22 213. Furthermore, the commitment offense is also among the immunitable facts
23 of the crimes which given the lapse of 26 years and the exemplary
24 rehabilitative goas made by petitioenr over that time, continued
25 reliance on the aggravating facts of the crime no longer amounts to some
26 evidence supporting denial of parole. In re Elkins, (2006) 144 Cal.App.
27 4th at p. 498. See also In re Barker, (2007) 59 CAL.Rptr.3d 746;
28 IN re Lawrence, (2007) 59 Cal.Rptr.3d\537.

1 214. And the parole board and Superior Court failed to consider petitioner's
2 age at the time he committed the crime. In re Elkins, (2006) 144
3 Cal.App.4th 475; Rosekrantz v. Marshall, (2006) 444 F.Supp.2d 1063.

4 The general unreliability of predicting violence is exacerbated in
5 a case by ... petitioner's young age at the time of the offense and
6 the passage in that case of nearly twenty years since that offense
7 was committed In re Elkins, (2006) 144 Cal.App.4th at P. 500;
8 In re Barker, (2007) 59 Cal.Rptr. 3d 746, 768.

9 215. Although, the Rosenkrantz, commitment offense is more flagrant than
10 the commitment offense in the instant case. The state and federal
11 court's had ruled in Rosenkrantz, the parole board's decision denying
12 Rosenkrantz, parole is not supported by some evidence. Those court

13 ordered Rosenkrantz, released and he was so released to the community.

14 See also Petition herein Memorandum of Points and Authorities P. 13 -22.

15 216. Likewise, the parole board had and continues to find suitable and
16 granted parole release dates to countless prisoner's whose commitment
17 offenses are much more flagrant than that in the instant case. See
18 In re Rosenkrantz, (2006) Superior Court, County of Los Angeles, Case
19 No. (BH003529) P. 3: line 12, 15, 16; In re Lawrence, (2007) 59 Cal.Rptr
20 3d 537; In re Gray, (2007) 59 Cal.Rptr.3d 724; In re Elkins, (2006)
21 144 Cal.4th 475: Rosekrantz v. Marshall, 444 F.Supp.2d 1063 (2006);
22 In re Lee, (2006) 49 Cal.Rptr.3d 931, 148 Cal.App.4th 1400: Martin v.
23 Marshall, 431 F.Supp.2d 1038 (2006).

24 217. Under any interpretation of Penal Code, § 3041, a prisoenr is free to
25 argue that he or she should be granted parole based on parole granted
26 in comparable cases. In re Dannenberg, (2005) 23 Cal.Rptr.3d 417 at p.
27 450. And the State and Federal Court's has continued to conclude (in
28

1 cases whom commitment offenses are more flagrant than that in the
 2 instant case), that the parole board's decisions denying parole is not
 3 supported by "some evidence". See In re Rosenkrantz, (2006) Superior
 4 Court, County of Los Angeles, Case No. (BH003529); In re Elkins, (2006)
 5 144 Cal.4th 475; In re Scott, (2004) 119 Cal.App.4th 871; In re Scott,
 6 133 Cal.App.4th 573; In re Smith, (2003) 114 Cal.App.4th 348; In re Lee,
 7 (2006) 143 Cal.App.4th 1400; In re Dannenberg, (2005) 34 Cal.4th 1061;
 8 In re Ramirez, (2001) 94 Cal.App. 4th 549; In re Weider, (2006) 52 Cal.
 9 Rptr.3d 147; In re Willis, (2007) 485 F.Supp.2d 1126; Biggs v. Terhune,
 10 334 F.3d 910 (9th Cir. 2003); irons v. Carey, 479 F.3d 658 (9th Cir.
 11 2007); In re Barker (2007) 59 Cal.Rptr.3d 746; McQuillion v. Duncan, (9th Cir. 2002) 306 F.3d 895; In re Lawrence, (2007) 59 Cal.Rptr.3d 537.

13 218. Therefore, in this case, the factor of the commitment offense is not
 14 some evidence to support the parole board's decision of unsuitability
 15 and the Superior Court's wrong application of the laws to that factor.

16 IN re Lawrence, (2007) 59 Cal.Rptr.3d 537. Please take Judicial Notice
 17 of In re Jameison, (2007) Superior Court, County of Santa Clara, Case
 18 No. (71194).

19 C.

20 The Superior Court erred in deciding only part of the case.

21 219. The Superior Court erred in considering only Ground 1(a) and Ground 6
 22 of the Petition for Writ of Habeas Corpus. See Exhibit "B".

23 220. Petitioner submitted Grounds 1-(a),(b),(c), 2, 3, 4, 5, and 6 in his
 24 Petition to the Superior Court. See Petition herein Memorandum of
 25 Points and Authorities, Table of Contents p. ii.

26 221. The Court failed to consider and decide petitioner's multiple legal
 27 claims specifically Grounds 1-(b),(c), 2, 3, 4, and 5 of the Petition
 28 for Writ of Habeas Corpus.

1 222. Petitioner have a right to a full review and decision of all of his
2 legal claims. Rose v. Superior Court, 96 Cal.Rptr.2d 843, 847;
3 California Rule of Court, Rule 4.551 (4)-(B)-(g).

4 D.

5 The Superior Court mismanaged this case and
6 abused its discretion.

7 223. The Superior Court erred in mismanaging this case and abusing its
8 discretion. The court erred in presenting the facts of the case, as
9 well held a misapplication of the pertinent laws for the individualized
10 consideration of the case.

11 224. The California Supreme Court has stated that "where one has a
12 substantial right to protect or enforce, and this maybe accomplished
13 by such a writ, and there is no other plain, speedy and adequate
14 remedy in the ordinary course o law, he is entitled as a matter of
15 right to the writ, or perhaps more correctly, in other words, it would
16 be an abuse of discretion to deny it." 6 Cal.3d at 491, quoting
17 Potomac Oil Co. v. Dye, (1909) 10 Cal.App. 534, 537, 102 P. 677.

18 225. It further states that the appellate court will independently
19 evaluate the evidence. In re Wright, (1978) 78 cal.App.3d 788, 801,
20 144 Cal.Rptr. 535.

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2 The Superior Court decision denying relief was contrary to,
3 or involved an unreasonable application of, clearly
4 established Federal Law, as determined by the Supreme Court
5 of the United States. 28 U.S.C. § 2254(d)-(1).

6 226. The Superior Court's adjudication of the claims resulted in a decision
7 that was contrary to, or involved an unreasonable application of,
8 clearly established Federal Law, as determined by the Supreme Court of
9 the United States.

10 227. Petitioner has the right to have all of his federal claims adjudicated
11 by the state courts.

12 228. The application of § 2254(d) in this case is affected by the fact
13 that there is no reasoned explanation by the Superior Court for the
14 rejection of petitioner's habeas petition on the merits. The Los
15 Angeles Superior Court denied petitioner's habeas petition due to
16 In re Rosenkrantz, (2002) 29 Cal.4th 616; which was a misapplicaton of
17 state law and the court did not adjudicate all of petitioner's federal
18 claims.

19 229. The Superior Court to reach the merits gave no reasoned explanation
20 of the denial of the petition on the remaining state and federal
21 claims in the petition where, the Superior court gives no reasoned
22 explanation of its decision, an "independent review of the record"
23 is the only means of decidign whether the state courts decision was
24 objectively reasonable. Hines v. Thompson, 336 F.3d 848, 853
(9th Cir. 2003).

25 230. The Superior Court's adjudication of the claims resulted in a decision
26 that was based on unreasonable determination of the facts in light of
27 the evidence rpesented In the state court proceeding. 28 U.S.C.,
28 § 2254(d); see Williams (Terry) v. Taylor, 529 U.S. 362, 409-13, 120

1 S.Ct. 1495, 146 L.Ed.2d 389 (2000). Section 2254(d) applies to a
 2 habeas petition from a state prisoner challenging the denial of
 3 parole. See Sass v. California Board of Prison Terms, 461 F.3d 1123,
 4 1126-27 (9th Cir. 2006); In re Willis, 485 F.Supp.2d at p. 1128 (2007);
 5 In re Lawrence, (2007) 59 Cal.Rptr.3d 537 at p. 556.

6 231. Finally, the Superior Court's judgment is in judicial error. People v.
 7 Simmons, (2006) 48 Cal.Rptr.3d 357d, 143 Cal.App.4th 256; In re
 8 Candelario, 3 Cal.3d at P. 705; see also People v. Schultz, (1965)
 9 23 Cal.App.2d 804, 008.

10 232. The Superior Court's errors in fact and in law, including its wrongful
 11 procedure that affects the rights of petitioner substantially and
 12 thus in may result in the reversal of a case is Prejudicial Error.
 13 And those errors committed by the judge during proceedings hearing that
 14 may result in reversal in convictions against petitioner is a Reversible
 15 Error.

16 233. A reversible error is proper where the reviewing court finds that
 17 reasonable minds would concur that the ultimate facts Must be contrary
 18 to the findings of the trial court and that a different judgment
 19 should be entered. Casper v. City of Los Angeles, (1956) 140 Cal.App.2d
 20 433, 295 P.2d 452.

21 234. The decision bY the Superior Court is inconsistent with the legal rights
 22 of petitioner in this case. It is a Fundamental Miscarriage of Justice.

23 VI.

24 CONCLUSION

25 235. THE CALIFORNIA BOARD OF PAROLE HEARINGS VIOLATED SEVERAL OF PETITIONER'S
 26 FUNDAMENTAL RIGHTS UNDER THE LAWS OF THE CONSTITUTION AND OF THE STATE
 27 OF CALIFORNIA; DURING A SUBSEQUENT PAROLE CONSIDERATION HEARING. IN

1 that, 1.) the parole board panel deprived petitioner of his due process
2 rights; when it found him unsuitable for parole release without some
3 evidence to support that decision; 2.) the parole board panel deprived
4 petitioner of his due process rights; when it failed to set a primary
5 term constitutionally proportionate and uniform to petitioner's
6 individual culpability in the commitment offenses; 3.) the parole
7 board panel deprived petitioner of his due process rights; when it
8 set-off (intervals) petitioner's next parole consideration hearing
9 for two years instead of one year; 4.) the parole board panel violated
10 the cruel and unusual punishment clause; when it failed to set
11 petitioner's primary term constitutionally proportionate and uniform
12 to petitioner's individual culpability in the commitment offenses; 5.)
13 the parole board panel deprived petitioner of his due process rights
14 and the equal protections of the laws; when it treated petitioner
15 differently from similarly situated prisoner's with the same offenses;
16 6.) the parole board panel violated petitioner's due process rights in
17 abusing its legal discretion; when it failed to act within its
18 discretion to consider substantial evidence supporting petitioner's
19 suitability for parole release and exceed its discretion in acting
20 beyond its authority; 7.) the parcle board panel deprived petitioner
21 of his due process rights; when it arbitrarily and capriciously found
22 petitioner unsuitable for parole release, failing to fix his primary
23 term and in setting-off his next parole consideration hearing for two
24 years.

25 236. In addition, the parole board's appointed counsel denied petitioner of
26 the effective assistance of counsel at petitioner's subsequent parole
27 consideration hearing; in that, Appointed Counsel failed to provide
28 petitioner with an adequate, reasonable and meaningful legal

1 representation; resulting in prejudice to petitioner in an unreliable
2 and fundamentally unfair outcome of the parole hearing.

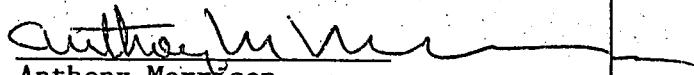
3 237. Petitioner has long served the primary term of (12-years) for his
4 commitment offense, and long served the five years statutory parole
5 period after release, not yet counting the work time / good time credits
6 that would be applicable to reduce any prison term set.

7 238. This Honorable court must grant the relief sought in the interest of
8 justice. The court must declare petitioner's rights. It must order the
9 California Board of Parole Hearings to vacate and set aside the (2006)
10 Subsequent Parole Consideration Hearing. It must order the California
11 Department of Corrections and Rehabilitation to immediately release
12 petitioner unconditionally. And it must grant any and all relief deemed
13 proper.

14 239. In addition, the California Superior Court has erred in its judgment.

15 The court had erred in the facts and law in this case as explained
16 herein this Petition Ground 7 See also Exhibit "B". Petitioner
17 should be given a fair opportunity to be heard on the complete merits
18 of his claims; and an appropriate judgment based on the true facts
19 of petitioner's individual culpability in the offense in accord with
20 the applications of legal principles and precedents of the laws.

21 Therefore, this Court of Appeals for the Second Appellate District;
22 must reverse the judgment of the Superior Court, independently review
23 the case, grant the relief in the Petition: grant the Petition for a
24 Writ of Habeas Corpus, Declare the Rights of petitioner, Order the
25 Board of Parole Hearings to vacate and set aside their decision at
26 the Parole Consideration Hearing; Subsequent #: (2) held on August 9,
27 2006, Order the California Department of Corrections and Rehabilitation
28 to release petitioner unconditionally from custody to the community

1 immediately, and grant any and all relief deemed proper.
2
3
4 Date: October 18, 2007.
5
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7 Respectfully submitted,
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9 Anthony Morrison
(Petitioner)
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IN PRO PER

P R A Y E R F O R R E L I E F

Petitioner is without remedy save for Writ of Habeas Corpus. Wherefore, petitioner request that the court:

- (1) Grant Petition for Writ of Habeas Corpus;
- (2) Declare the rights of petitioner;
- (3) Order the California Board of Parole Hearings to vacate and set aside the (2006) Subsequent Parole Consideration Hearing;
- (4) Order the California Department of Corrections and Rehabilitation to immediately release petitioner unconditionally;
- (5) Grant any and all relief deemed proper.

Date: October 18, 2007

Respectfully submitted,

Anthony Morrison
(Petitioner)

IN PRO PER

VERIFICATION

I, Anthony Morrison, State:

I am the petitioner in this action. And I have read the foregoing Petition for a Writ of Habeas Corpus, and the facts stated therein are true to my own knowledge, except as to matters taht are therein stated on my own information and belief, and as to those matters I believe them to be true.

8 I declare under penalty of perjury that the foregoing is true and correct
9 and what this declaration was executed on October 18, 2007, at the
10 Correctional Training Facility - Central, Soledad, California.

13 Date: October 18, 2007

Respectfully submitted,

Anthony Morrison
(Petitioner)

IN PRO PER

1 Anthony Morrison C-60307
2 P. O. Box 689
2 Soledad, California.
3 Zip. 93960-0689

4 IN PRO PER

5

6 SUPREME COURT OF THE STATE OF CALIFORNIA

7

8 In re Anthony Morrison,
9 (Petitioner)

10 vs.

11 Ben Curry, (Warden) (A) et.al
12 (Respondant)

Case No. _____

REQUEST FOR APPOINTMET OF COUNSEL
AND DECLARATION OF INDIGENCY.

13 I, Anthony Morrison, declare that I am the petitioner into this action,
14 that I am incarcerated at the Correctional Training Facility - Central, in
15 Soledad, California, and that I am indigent and unable to afford counsel.
16 My total assets are: \$ 20.00 and my income is \$ 20.00 per month.

17 I hereby request that counsel be appointed in this matter so that my
18 interests may be protected by the professional assistance required.

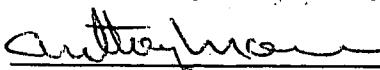
19 I declare under penalty of perjury that the foregoing is true and correct
20 and that this declaration was executed on October 18, 2007, at Soledad,
21 California.

22

23

24 Date: October 18, 2007

Respectfully submitted,


Anthony Morrison
(Petitioner)

25

26

27

28

IN PRO PER

1 Anthoy Morrison C-60307
2 P. O. Box 689
3 Soledad, California.
4 Zip. 93960-0689

5 (Petitioner)

6

7 SUPREME COURT OF THE STATE OF CALIFORNIA

8 In re Anthony Morrison,
9 (Petitioner)

10 vs.

11 Ben Curry, (Warden) (A) et.al
12 (Respondent)

Case No. _____

13 ORDER TO SHOW CAUSE AND NOTICE TO
14 FILE RETURN.

15 From the Petition and the Points and Authorities filed in support of it in the
16 above - captioned proceeding, it appears that there is reasonable cause to believe
17 that petitioner may be entitled to a Writ of habeas Corpus and that he will
18 suffer irreparable harm if this cause is not heard as soon as possible. Accordingly,
19 lets issue an order to show cause why the relief prayed for should not be granted.

20 The Attorney General is directed to file a return to the order on

21 _____ . Hearing on the matter is set for: _____
22 a Denial and Exception to the return shall be filed on _____
23 or before the date set for hearing.

24 Date: _____

25 JUDGE

COPY

EXHIBIT "A"

SUBSEQUENT PAROLE CONSIDERATION HEARING

STATE OF CALIFORNIA

BOARD OF PAROLE HEARINGS

In the matter of the Life)
Term Parole Consideration) CDC Number C-60307
Hearing of:)
ANTHONY MORRISON)

CORRECTIONAL TRAINING FACILITY
SOLEDAD, CALIFORNIA

AUGUST 9, 2006

PANEL PRESENT:

Mr. Archie Joe Biggers, Presiding Commissioner
Mr. Rufus Morris, Deputy Commissioner

OTHERS PRESENT:

Mr. Anthony Morrison, Inmate
Ms. Candace Christensen, Attorney for Inmate
Ms. Jennifer Dawson, Deputy District Attorney
Correctional Officer, Unidentified

INMATE
COPY

CORRECTIONS TO THE DECISION HAVE BEEN MADE

No
 Yes

See Review of Hearing
Transcript Memorandum

Stacy Wegner, Vine, McKinnon & Hall

INDEX

	<u>Page</u>
Proceedings.....	1
Case Factors.....	10
Pre-Commitment Factors.....	22
Post-Commitment Factors.....	31
Parole Plans.....	52
Closing Statements.....	61
Recess.....	69
Decision.....	69
Adjournment.....	77
Transcriber Certification.....	78

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PROCEEDINGS

2 DEPUTY COMMISSIONER MORRIS: We're on record.

3 PRESIDING COMMISSIONER BIGGERS: This is a
4 subsequent parole consideration hearing for an Anthony
5 Morrison, M-O-R-R-I-S-O-N, CDC number C-60307. Today's
6 date is August the 9th, 2006, and we're located at the
7 Correctional Training Facility at Soledad. The life term
8 -- the inmate was received on February the 3rd, 1983,
9 from San Bernardino County. The life term began on the
10 same date, and the minimum eligible parole date was
11 September the 25th, 1995. The controlling offense for
12 which the inmate has been committed is a kidnap for
13 robbery, case number is SBDCR-8103. One count of a Penal
14 Code violation of a 209 with enhancement of a 12022.5.
15 There was some additional charges, robbery, which was a
16 violation of 211, San Bernardino County, the same case
17 number, and that was count six and 20. Those counts were
18 stayed. There was a oral copulation in concert, which is
19 a violation of a 288(a), same county, same case number
20 SBDCR-8103. Those were count three, four, five, seven,
21 eight, 10, 18, one and 19. There was also an additional
22 charge of rape in concert, which is a violation of a
23 286(a), same county, same case number, and that was count
24 nine, 12, 13, 14, 15 and 16. There was also a sodomy in
25 concert, which was a violation of a P.C. 286(d) with a
26 12022.5, San Bernardino County, same case number, and
27 that's count 11 and 17. The inmate received two terms of

1 life, where I believe one of them is to run concurrently.

2 Is that right?

3 DEPUTY DISTRICT ATTORNEY DAWSON: I think so.

4 PRESIDING COMMISSIONER BIGGERS: Okay. And with the
5 minimum eligible parole date, as I mentioned earlier, of
6 9/25/95. Now, Mr. Morrison, this case is being --
7 hearing is being tape recorded. For the purpose of voice
8 identification, each of us will state our first and last
9 name, spelling your last name. When it's your turn,
10 after spelling your last name, please give us your CDC
11 number. I will start. My name is Archie Joe Biggers,
12 B-I-G-G-E-R-S. I'm a Commissioner with the Board of
13 Parole Hearings.

14 DEPUTY COMMISSIONER MORRIS: Rufus Morris,
15 M-O-R-R-I-S, Deputy Commissioner.

16 DEPUTY DISTRICT ATTORNEY DAWSON: Jennifer Dawson,
17 D-A-W-S-O-N, Deputy District Attorney, San Bernardino
18 County.

19 ATTORNEY CHRISTENSEN: Candace Christensen,
20 C-H-R-I-S-T-E-N-S-E-N, attorney for Mr. Morrison.

21 INMATE MORRISON: Anthony Morrison, C-60307.

22 PRESIDING COMMISSIONER BIGGERS: Mr. Morrison, in
23 front of you there is a ADA statement in front you.
24 Would you please read that out loud for us?

25 INMATE MORRISON: Okay.

26 The American's with Disabilities Act, ADA, is
27 a law to help people with disabilities.

1 Disabilities are problems that makes it hard
2 for some people to see, hear, breathe, talk,
3 walk, learn, think, work, or take care of
4 themselves than it is for others. Nobody can
5 be kept out of public places and activities
6 because of disabilities. If you have a
7 disability, you have the right to ask for help
8 to get ready for your BPT hearing, get to the
9 hearing, talk, read forms and papers and
10 understand the hearing proceedings. BPT will
11 look at what you ask for to make sure that you
12 have a disability that is covered by the ADA
13 and that to have to ask for the right kind of
14 help. If you do not get help, or if you don't
15 think you got the kind of help you need, ask
16 for a BPT 1074 Form. You can also get help to
17 fill it out.

18 **PRESIDING COMMISSIONER BIGGERS:** All right. Mr.

19 Morrison, in your own words what does that mean to you?

20 **INMATE MORRISON:** If you don't understand -- if you
21 don't understand what's going on, you can get some help
22 from the ADA.

23 **PRESIDING COMMISSIONER BIGGERS:** Okay. What kind of
24 help were we talking about here, sir?

25 **INMATE MORRISON:** Self explanatory.

26 **PRESIDING COMMISSIONER BIGGERS:** No, it's not self
27 explanatory, that's why I'm asking you, sir. About

1 hearing, reading -- I see you have glasses on?

2 INMATE MORRISON: Right.

3 PRESIDING COMMISSIONER BIGGERS: Okay. Are those
4 prescription glasses?

5 INMATE MORRISON: Yes, they are.

6 PRESIDING COMMISSIONER BIGGERS: Do you need those
7 to read?

8 INMATE MORRISON: Yes, I do.

9 PRESIDING COMMISSIONER BIGGERS: Okay. So that's a
10 disability?

11 INMATE MORRISON: Yes.

12 PRESIDING COMMISSIONER BIGGERS: All right. Do you
13 have any hearing impairments?

14 INMATE MORRISON: No.

15 PRESIDING COMMISSIONER BIGGERS: Okay. Have you --
16 did you have any trouble walking over here today?

17 INMATE MORRISON: No, I did not.

18 PRESIDING COMMISSIONER BIGGERS: Okay. I see that
19 you signed a 1073 on April the 7th, '06, indicating that
20 you have no disabilities. Is that correct?

21 INMATE MORRISON: Exactly.

22 PRESIDING COMMISSIONER BIGGERS: Okay. But you're
23 wearing glasses, so therefore there is a place on here
24 that says you have vision problems.

25 INMATE MORRISON: Just for reading.

26 PRESIDING COMMISSIONER BIGGERS: Okay. Then you
27 should put down that I need that because the next

1 question I'm going to ask you is whether or not you had
2 those glasses on when you reviewed your C file?

3 INMATE MORRISON: Yes, I did.

4 PRESIDING COMMISSIONER BIGGERS: Okay. Sir, the
5 information is in fact correct? Is what you're saying?

6 INMATE MORRISON: Yes.

7 PRESIDING COMMISSIONER BIGGERS: Have you ever been
8 involved in CCCMS or EOP programs?

9 INMATE MORRISON: No, I have not.

10 PRESIDING COMMISSIONER BIGGERS: Do you know what
11 those are?

12 INMATE MORRISON: Not really.

13 PRESIDING COMMISSIONER BIGGERS: All right. They
14 have to do with mental health issues. Have you ever been
15 involved in the mental health programs here at the
16 institution?

17 INMATE MORRISON: No.

18 PRESIDING COMMISSIONER BIGGERS: Have you ever been
19 given any psychotropic medication, either in prison or on
20 the street?

21 INMATE MORRISON: No.

22 PRESIDING COMMISSIONER BIGGERS: How far did you get
23 in school on the streets?

24 INMATE MORRISON: 9th grade.

25 PRESIDING COMMISSIONER BIGGERS: 9th grade, and I
26 see you got your GED since you've been incarcerated. Is
27 that correct?

1. INMATE MORRISON: Yes, I have.

2. PRESIDING COMMISSIONER BIGGERS: Do you suffer from
3. any disability that would prevent you from participating
4. in today's hearing?

5. INMATE MORRISON: No.

6. PRESIDING COMMISSIONER BIGGERS: Okay. This hearing
7. is being conducted pursuant to Penal Code Section 3041
8. and 3042 and the rules and regulations of the Board of
9. Prison Terms governing parole consideration hearings for
10. life inmates. The purpose of today's hearing is to once
11. again consider the number and nature of the crimes you
12. were committed for, your prior criminal and social
13. history, and your behavior and programming since your
14. commitment. We've had the opportunity to review your
15. Central File as well as your transcript, and you will be
16. given the opportunity to correct or clarify the record.
17. We will reach a decision today and inform you whether or
18. not we find you suitable for parole and the reasons for
19. our decision. If you are found suitable for parole, the
20. length of your confinement will be explained to you.
21. Nothing that happens here today will change the finding
22. of the Court. This Panel is not here to retry your case.
23. This Panel is here for the sole purpose of determining
24. whether or not you are suitable for parole. Do you
25. understand that?

26. INMATE MORRISON: Yes.

27. PRESIDING COMMISSIONER BIGGERS: The hearing will be

1 conducted in three phases. I will discuss with you the
2 crime you were committed for, your prior criminal and
3 social history. Deputy Commissioner Morris will talk to
4 you about your post-conviction factors as well as your
5 psychological evaluation. Then I will return and talk to
6 you about your parole plans and any letters of support or
7 opposition that may be in your file. Once that is
8 concluded, both Commissioners, the District Attorney and
9 your attorney will be given the opportunity to ask you
10 questions. Questions from the District Attorney shall be
11 asked through the Chair, and you will direct your answers
12 to the Panel. Next, the District Attorney, then your
13 attorney, then you will be given an opportunity to make a
14 statement regarding your parole suitability. Your
15 statement should address why you feel you are suitable
16 for parole. At this time, also, normally a victim or
17 next of kin or representative will have the opportunity
18 to give a statement regarding the crime. The victim is
19 not here, but she did send a letter to the Board, so at
20 that point I will read that letter into the record.
21 After I read the letter into the record, the Panel will
22 recess, clear the room and deliberate. Once the
23 deliberations are complete, the Panel will resume the
24 hearing and announce its decision. Now, the California
25 Code of Regulations states that regardless of time
26 served, a life inmate shall be found unsuitable for and
27 denied parole, if in the event -- or the judgment of this

1 Panel the inmate would pose an unreasonable risk of
2 danger to society if released from prison. You have
3 certain rights. Those rights include the right to a
4 timely notice of this hearing, the right to review your
5 Central File, which you indicated to me that you had read
6 your Central File, and the right to present relevant
7 documents. So I'm going to ask your attorney does she
8 feel that your rights have been met?

9 **ATTORNEY CHRISTENSEN:** Yes, I do.

10 **PRESIDING COMMISSIONER BIGGERS:** Okay. Did I ask
11 you that about the ADA as well?

12 **ATTORNEY CHRISTENSEN:** Well, the only ADA issue he
13 has is his glasses, so since he has --

14 **PRESIDING COMMISSIONER BIGGERS:** Okay. Well, I'm
15 sorry I missed that, but do you feel that his ADA rights
16 have been met as well?

17 **ATTORNEY CHRISTENSEN:** Yes, I do.

18 **PRESIDING COMMISSIONER BIGGERS:** Okay. You have an
19 additional right to be heard by an impartial Panel. Do
20 you have any objection to the Panel members, sir?

21 **INMATE MORRISON:** No.

22 **PRESIDING COMMISSIONER BIGGERS:** Okay. And I'm
23 going to ask your inmate -- your attorney if she has any.

24 **ATTORNEY CHRISTENSEN:** No, I don't.

25 **PRESIDING COMMISSIONER BIGGERS:** Okay. I'm going to
26 ask Deputy Commissioner Morris if there's any -- will any
27 confidential material be used?

1 DEPUTY COMMISSIONER MORRIS: There is confidential
2 materials having to do with the crime partners. I don't
3 believe that we're going to be using any of that
4 information today.

5 PRESIDING COMMISSIONER BIGGERS: Okay. I'm going to
6 mark this as Exhibit One, the checklist, the hearing
7 checklist, and I'm going to give it to your attorney as
8 well as to the District Attorney to ensure that we are
9 all working off the same set of documents.

10 ATTORNEY CHRISTENSEN: I have them all.

11 DEPUTY DISTRICT ATTORNEY DAWSON: I have them all.

12 PRESIDING COMMISSIONER BIGGERS: Let the record
13 reflect that both the attorneys indicated that they did
14 have the documents. Are there any additional documents,
15 other than the ones that you provided earlier, Counselor?

16 ATTORNEY CHRISTENSEN: No, that's it.

17 PRESIDING COMMISSIONER BIGGERS: Are there any
18 preliminary objections?

19 ATTORNEY CHRISTENSEN: No.

20 PRESIDING COMMISSIONER BIGGERS: Okay. Will the
21 inmate be speaking to the Panel today?

22 ATTORNEY CHRISTENSEN: Yes, he will.

23 PRESIDING COMMISSIONER BIGGERS: All right. Mr.
24 Morrison, would you please raise your right hand? Do you
25 solemnly swear or affirm that the testimony you are about
26 to give at this hearing will be the truth, the whole
27 truth, and nothing but the truth?

1 INMATE MORRISON: Yes.

2 PRESIDING COMMISSIONER BIGGERS: Okay. Thank you.

3 I'm going to read into the record from the 2006 board
4 report the summary of the crime:

5 On December the 25th, Christmas Day I might
6 add, 1981, at about 10:14 hours in San
7 Bernardino, Anthony Mark Morrison kidnapped
8 for robbery by use of a handgun Ronald
9 Chappell, C-H-A-P-P-E-L-L, and Lisa Goble, G-
10 O-B-L-E. Morrison had three other crime
11 partners. Following the kidnapping, Lisa
12 Goble was repeatedly raped, sodomized and made
13 to orally copulate his crime partner. She was
14 violated and feared for her life. At one
15 point of the crime partner -- at one point one
16 of the crime partners stated let's blow this
17 bitch's head off. She was also pistol
18 whooped. The kidnap occurred in the city of
19 Upland, and the sexual assaults began
20 immediately in the car and continued in the
21 city of San Bernardino. The victim and
22 Morrison were strangers.

23 In your version, Mr. Morrison, you said that you
24 were innocent and are appealing the case.

25 INMATE MORRISON: No.

26 PRESIDING COMMISSIONER BIGGERS: And then I got an
27 addendum. This was what was in the initial report, so

1 let me --

2 INMATE MORRISON: All right.

3 PRESIDING COMMISSIONER BIGGERS: -- so let me
4 finish, please.

5 INMATE MORRISON: All right.

6 PRESIDING COMMISSIONER BIGGERS: I got an addendum
7 that was signed by CC-I Stan Martinez, and it says -- the
8 prisoner's version that Morrison stated that he was
9 present at the crime scene concerning the life crime;
10 however, he entered into the record that he did not
11 partake in a active culpable role. Is that right?

12 INMATE MORRISON: Exactly.

13 PRESIDING COMMISSIONER BIGGERS: What did you mean
14 by that, sir?

15 INMATE MORRISON: That means the role -- what
16 happened in the fields I didn't participate in none of
17 them acts.

18 PRESIDING COMMISSIONER BIGGERS: What was your
19 involvement?

20 INMATE MORRISON: As far as?

21 PRESIDING COMMISSIONER BIGGERS: What was your
22 involvement in the crime?

23 INMATE MORRISON: I kidnapped her.

24 PRESIDING COMMISSIONER BIGGERS: You kidnapped her?

25 INMATE MORRISON: Yeah. I had her oral copulate him
26 on the way to the fields.

27 PRESIDING COMMISSIONER BIGGERS: Okay.

1 INMATE MORRISON: And then when I got to the fields
2 I left.

3 PRESIDING COMMISSIONER BIGGERS: You left?

4 INMATE MORRISON: Yes, I did.

5 PRESIDING COMMISSIONER BIGGERS: Okay. Did she not
6 pick you up out of the lineup?

7 INMATE MORRISON: No.

8 PRESIDING COMMISSIONER BIGGERS: Tell me what
9 happened when you went to the lineup with the victim.
10 What did she say that you did to her?

11 INMATE MORRISON: She didn't pick me out. She
12 picked Anthony Keany (phonetic) out of the lineup.

13 PRESIDING COMMISSIONER BIGGERS: Wasn't there -- you
14 know, the last time you came up before a Board hearing
15 you had a very interesting conversation with Commissioner
16 Welch (phonetic). Is that correct?

17 INMATE MORRISON: Yes, I did.

18 PRESIDING COMMISSIONER BIGGERS: Okay. And what did
19 Commissioner Welch tell you?

20 INMATE MORRISON: As far as?

21 PRESIDING COMMISSIONER BIGGERS: Well, just tell me
22 in general what did he tell you about the crime and also
23 what you should do?

24 INMATE MORRISON: He told me I should of been
25 truthful from day one instead of bringing a affidavits
26 in, he said I should of been truthful from day one. And
27 it would be hard for him, per, se to have confidence that

1 I would be telling him the truth now.

2 PRESIDING COMMISSIONER BIGGERS: Basically, what he
3 was telling you should be a historian so that you get all
4 your facts straight before you come in. Is that correct?

5 INMATE MORRISON: Somewhat, yes.

6 PRESIDING COMMISSIONER BIGGERS: Okay. So now you
7 are taking full responsibility?

8 INMATE MORRISON: I did last time, too.

9 PRESIDING COMMISSIONER BIGGERS: But that was after
10 an investigation?

11 INMATE MORRISON: I didn't even know that was going
12 to happen. I still stepped up. I didn't even know that
13 was happening.

14 PRESIDING COMMISSIONER BIGGERS: Okay. Well, why do
15 you think that they asked for an investigation?

16 INMATE MORRISON: Because I told them I wasn't
17 there.

18 PRESIDING COMMISSIONER BIGGERS: You were not there,
19 and then there was some DNA gathering. Is that --

20 INMATE MORRISON: I don't know nothing about no DNA.
21 I told them that I was trying to get DNA to clear my
22 name, for what I did and what I didn't do.

23 PRESIDING COMMISSIONER BIGGERS: Okay. Did you not
24 appeal this?

25 INMATE MORRISON: The case?

26 PRESIDING COMMISSIONER BIGGERS: Yes.

27 INMATE MORRISON: My appeal went to the wrong

1 courts, so they say I have no appeal now.

2 PRESIDING COMMISSIONER BIGGERS: Okay. But when you
3 were talking to -- you said that you were not aware that
4 there was an investigation?

5 INMATE MORRISON: No, I wasn't. He had told me he
6 was, but I didn't believe him. He told me he it was
7 going to get investigated.

8 PRESIDING COMMISSIONER BIGGERS: Okay. Did you read
9 the last transcript from 2004?

10 INMATE MORRISON: Yes. Yes.

11 PRESIDING COMMISSIONER BIGGERS: Remember what he
12 said on Page 13?

13 INMATE MORRISON: I have it right here. I don't
14 remember.

15 PRESIDING COMMISSIONER BIGGERS: "And what -- and
16 why did at first you didn't commit the crime. I
17 submit -- I note the last time you appeared before me I
18 requested an investigation, and I have the results of the
19 investigation." And in that you had said that you had
20 submitted DNA and to prove that you didn't commit this
21 crime. And then you said, "Yes, I did submit DNA." And
22 now you just told me that you didn't.

23 INMATE MORRISON: No, I had Berry Sheck (phonetic)
24 working on my case for DNA. I never did -- he never did
25 find the DNA, so there was nothing to give up because
26 they said they couldn't find the DNA.

27 PRESIDING COMMISSIONER BIGGERS: Did you, in fact,

1 submit DNA?

2 INMATE MORRISON: No, it's impossible.

3 PRESIDING COMMISSIONER BIGGERS: Okay. Well, look
4 on Page 14. I'm just -- top of Page 14.

5 INMATE MORRISON: That's what it says down there,
6 yes.

7 PRESIDING COMMISSIONER BIGGERS: Did you -- that's
8 what I'm asking you, okay.

9 INMATE MORRISON: No.

10 PRESIDING COMMISSIONER BIGGERS: Okay. And that's
11 what's in the transcript, and then did it come back the
12 finding that they couldn't find the rest of the DNA.

13 Presiding Commissioner Welch --

14 INMATE MORRISON: That's what is in there.

15 PRESIDING COMMISSIONER BIGGERS: Hold on. "So now
16 you say you didn't commit the crime; however -- now you
17 say I did commit the crime. I did commit the crime.

18 Okay. What happened? Well, when I was trying to get the
19 DNA because I didn't rape the woman. I was there at the
20 crime. I did the crime. I just as guilty as they are.
21 And then that's when you said before you wasn't at the
22 crime scene, and now you say are, but you didn't commit
23 the rape. No, I did not. Okay. What were your
24 participation" -- again, I'm going down the transcript
25 here. I'm on Page 15. "I kidnapped here and she
26 sodomized and oral copulated me. Is that correct?

27 INMATE MORRISON: Exactly.

1 PRESIDING COMMISSIONER BIGGERS: Okay. And then
2 Commissioner Welch asks you if you sodomized her, and you
3 said no, you did not.

4 INMATE MORRISON: Exactly.

5 PRESIDING COMMISSIONER BIGGERS: Okay. I'm going to
6 ask you again why did you kidnap the woman?

7 INMATE MORRISON: Dumb.

8 PRESIDING COMMISSIONER BIGGERS: Well, I know that.

9 INMATE MORRISON: Dumb.

10 PRESIDING COMMISSIONER BIGGERS: It's got to be
11 dumb.

12 INMATE MORRISON: There wasn't no reason why I
13 kidnapped her. I didn't know her. There wasn't no
14 reason why.

15 PRESIDING COMMISSIONER BIGGERS: You were with three
16 other crime partners?

17 INMATE MORRISON: Yes, I was.

18 PRESIDING COMMISSIONER BIGGERS: Okay. And how long
19 had you known these guys?

20 INMATE MORRISON: One for two years, and one for six
21 months, and I went to school with one of them.

22 PRESIDING COMMISSIONER BIGGERS: Okay. And you all
23 were just joyriding around and you decided you were going
24 to do something to this person?

25 INMATE MORRISON: No, we decided that we was going
26 to rob somebody.

27 PRESIDING COMMISSIONER BIGGERS: Okay.

1 INMATE MORRISON: And it turned into something else.

2 PRESIDING COMMISSIONER BIGGERS: So you were
3 planning a robbery. How did you pick these people out?

4 INMATE MORRISON: At gas station.

5 PRESIDING COMMISSIONER BIGGERS: Okay. Was the
6 woman appealing to you or something, or the guy that she
7 was with look like he couldn't defend himself or
8 something?

9 INMATE MORRISON: No, I don't remember seeing
10 nothing like that.

11 PRESIDING COMMISSIONER BIGGERS: Well, why did you
12 all just pick them out? Were they the only ones at the
13 gas station?

14 INMATE MORRISON: They was the only one at the gas
15 station.

16 PRESIDING COMMISSIONER BIGGERS: Okay. When you saw
17 that this thing was getting out of hand, why didn't you
18 just say hey, guys this isn't what I signed up to do?

19 INMATE MORRISON: That did happen, but it didn't
20 happen until I got to the fields.

21 PRESIDING COMMISSIONER BIGGERS: But you -- when did
22 you sodomize her and when did you force her to orally
23 copulate you?

24 INMATE MORRISON: I didn't -- did not sodomize her
25 period.

26 PRESIDING COMMISSIONER BIGGERS: When did you ask
27 her -- when you force her to -

1 INMATE MORRISON: Orally copulate.

2 PRESIDING COMMISSIONER BIGGERS: -- orally copulate
3 you?

4 INMATE MORRISON: During the drive from Upland to
5 San Bernardino.

6 PRESIDING COMMISSIONER BIGGERS: Okay. Well, then
7 you said on your way to the fields, right?

8 INMATE MORRISON: Right.

9 PRESIDING COMMISSIONER BIGGERS: Okay. So the point
10 I'm trying to get at is why didn't you stop prior to that
11 time?

12 INMATE MORRISON: I don't know why I didn't stop.

13 PRESIDING COMMISSIONER BIGGERS: Okay. After you
14 got her in the car you saw what you saw that they had
15 forced them into the car?

16 INMATE MORRISON: Exactly.

17 PRESIDING COMMISSIONER BIGGERS: It had gone beyond
18 robbery at that time?

19 INMATE MORRISON: Yes, it did.

20 PRESIDING COMMISSIONER BIGGERS: Why didn't you stop
21 once you asked them for their money or whatever instead
22 of just putting them in the car?

23 INMATE MORRISON: I don't know why.

24 PRESIDING COMMISSIONER BIGGERS: You don't know why.
25 Okay. How do you feel about the victim at this point?

26 INMATE MORRISON: Terrible.

27 PRESIDING COMMISSIONER BIGGERS: Okay. What do you

1 think she's going through?

2 INMATE MORRISON: A lot of emotions, lot of
3 emotions. I been raped since I've been locked up, so I
4 know what she's going through.

5 PRESIDING COMMISSIONER BIGGERS: Oh, you have been
6 raped?

7 INMATE MORRISON: Yes, I have. Yes, I have.

8 PRESIDING COMMISSIONER BIGGERS: Okay. And did you
9 report it?

10 INMATE MORRISON: No, I did not.

11 PRESIDING COMMISSIONER BIGGERS: Why not?

12 INMATE MORRISON: I reported it to the psych. When
13 I seen the psych, I brought it to the psych's attention.
14 But I was molested when I was small, too so I know what
15 she went through.

16 PRESIDING COMMISSIONER BIGGERS: You were molested
17 when you were small?

18 INMATE MORRISON: Right.

19 PRESIDING COMMISSIONER BIGGERS: And yet you allowed
20 yourself to get involved with people that did it to
21 somebody else?

22 INMATE MORRISON: Yes, I did. Yes, I did.

23 PRESIDING COMMISSIONER BIGGERS: Now, when you said
24 dumb, that's not dumb, that's stupid.

25 INMATE MORRISON: Yeah. I agree with you. But that
26 wasn't what I was thinking when that was going on.

27 PRESIDING COMMISSIONER BIGGERS: What were you

1 thinking, sir?

2 INMATE MORRISON: I was just -- I was just with
3 them. I was just with the guys.

4 PRESIDING COMMISSIONER BIGGERS: How old were you
5 when this happened?

6 INMATE MORRISON: 17 years old.

7 PRESIDING COMMISSIONER BIGGERS: How old was the
8 oldest individual that was your crime partner?

9 INMATE MORRISON: I believe 22 or 23.

10 PRESIDING COMMISSIONER BIGGERS: Okay. And how long
11 had you known the 22 year-old?

12 INMATE MORRISON: I think a year.

13 PRESIDING COMMISSIONER BIGGERS: A year?

14 INMATE MORRISON: Yeah.

15 PRESIDING COMMISSIONER BIGGERS: You were running
16 with him for a year?

17 INMATE MORRISON: Not running with him.

18 PRESIDING COMMISSIONER BIGGERS: Just associating
19 with him?

20 INMATE MORRISON: Yes.

21 PRESIDING COMMISSIONER BIGGERS: Were you the
22 youngest?

23 INMATE MORRISON: No, I wasn't the youngest.

24 PRESIDING COMMISSIONER BIGGERS: Who was the
25 youngest?

26 INMATE MORRISON: The guy that took a deal.

27 PRESIDING COMMISSIONER BIGGERS: And how old was he?

1 INMATE MORRISON: I believe 15.

2 PRESIDING COMMISSIONER BIGGERS: 15?

3 INMATE MORRISON: Yes.

4 PRESIDING COMMISSIONER BIGGERS: So you had a 15

5 year-old, a 17 year-old, and a 22 year-old, and how old
6 was the fourth guy?

7 INMATE MORRISON: 21 or 22.

8 PRESIDING COMMISSIONER BIGGERS: 22?

9 INMATE MORRISON: Yeah.

10 PRESIDING COMMISSIONER BIGGERS: You ever thought
11 you may of been being used? You were driving the car,
12 were you not?

13 INMATE MORRISON: No, I was on the passenger side.

14 PRESIDING COMMISSIONER BIGGERS: On the passenger
15 side?

16 INMATE MORRISON: Right.

17 PRESIDING COMMISSIONER BIGGERS: Now, I understand
18 that one of the victims were in one car, and then the
19 other victim was in another car?

20 INMATE MORRISON: Exactly.

21 PRESIDING COMMISSIONER BIGGERS: Is that right?

22 INMATE MORRISON: Right.

23 PRESIDING COMMISSIONER BIGGERS: Okay. When you
24 were on the passenger side and they were driving around
25 with them, what were you doing to the victim that was in
26 the car with you?

27 INMATE MORRISON: I was getting orally copulated.

1 PRESIDING COMMISSIONER BIGGERS: Did you have a gun?

2 INMATE MORRISON: Yes, I did.

3 PRESIDING COMMISSIONER BIGGERS: Okay. And you
4 pointed a gun at her?

5 INMATE MORRISON: Yes, I did.

6 PRESIDING COMMISSIONER BIGGERS: Okay. Where did
7 you get the gun?

8 INMATE MORRISON: From the 22 year-old.

9 PRESIDING COMMISSIONER BIGGERS: From the 22 year-
10 old?

11 INMATE MORRISON: Yeah.

12 PRESIDING COMMISSIONER BIGGERS: Okay. When you
13 held the gun on her, did you hold it to her head?

14 INMATE MORRISON: I don't recall.

15 PRESIDING COMMISSIONER BIGGERS: You don't recall?

16 INMATE MORRISON: No.

17 PRESIDING COMMISSIONER BIGGERS: All right. Well,
18 again, they found you guilty of all these charges, and
19 you got two life terms. I'm not going go in there and
20 try to retry the case. I do want to know though when you
21 said this you had been molested before, do you recall,
22 and it's in the probation officer's report, that in May
23 1977 you had two counts of indecent exposure?

24 INMATE MORRISON: Yes, I do.

25 PRESIDING COMMISSIONER BIGGERS: Okay. Tell me
26 about that, and they were settled out of court. Tell me
27 what happened there.

1 INMATE MORRISON: I was using a restroom and a guy
2 came outside his house or house and he seen me, and he
3 called the police on me.

4 PRESIDING COMMISSIONER BIGGERS: Twice?

5 INMATE MORRISON: This only happened one time.

6 PRESIDING COMMISSIONER BIGGERS: Well, we have two
7 counts.

8 INMATE MORRISON: No, just one time that I know of.

9 PRESIDING COMMISSIONER BIGGERS: Well, it says here
10 it was settled out of court. What happened?

11 INMATE MORRISON: What happened to the case?

12 PRESIDING COMMISSIONER BIGGERS: Yes.

13 INMATE MORRISON: They put me on -- I believe, they
14 put me on probation.

15 PRESIDING COMMISSIONER BIGGERS: Well, they did
16 that, but they said that -- again, committing property
17 offense in May 1977 and graduated to two counts of
18 indecent exposure, which were settled out of court. They
19 had to go to court --

20 INMATE MORRISON: It only happened one time.

21 PRESIDING COMMISSIONER BIGGERS: So there was two
22 counts for that one exposure? Is that --

23 INMATE MORRISON: I only been arrested one time for
24 that.

25 PRESIDING COMMISSIONER BIGGERS: Okay. And then it
26 says -- we'll talk about your priors in a minute because
27 I also want to know why it was -- when you were on

1 probation that you didn't comply with your probation.

2 Performance was poor to unsatisfactory according to your
3 probation officer.

4 INMATE MORRISON: Yes.

5 PRESIDING COMMISSIONER BIGGERS: Why was that?

6 INMATE MORRISON: I was young.

7 PRESIDING COMMISSIONER BIGGERS: Well, but what
8 could you say to make it -- two-part question. One, what
9 can you tell this Panel today that if you are given a
10 date that one, you wouldn't go back out and get involved
11 in something like this and follow the rules that have
12 been set up for you when you didn't do it prior to, and
13 secondly, how would you react in a situation where you
14 see women?

15 INMATE MORRISON: When I see women?

16 PRESIDING COMMISSIONER BIGGERS: Yes, if you're out
17 there by yourself.

18 INMATE MORRISON: I don't have -- I'm not a serial
19 rapist or nothing.

20 PRESIDING COMMISSIONER BIGGERS: I didn't say
21 anything about being a serial rapist.

22 INMATE MORRISON: Right.

23 PRESIDING COMMISSIONER BIGGERS: How do you think
24 you would feel, because you have been incarcerated for a
25 long period of time?

26 INMATE MORRISON: Yes, I have.

27 PRESIDING COMMISSIONER BIGGERS: So how would you

1 respond to a situation where you see someone?

2 INMATE MORRISON: It wouldn't bother me. Women
3 wouldn't make me want to go after no women or nothing
4 like that, if that's what you're trying --

5 PRESIDING COMMISSIONER BIGGERS: I'm trying to find
6 out what you were thinking when you went out there to the
7 service station, you robbed the person, you put her in
8 the car before you drove off, put a gun to her head and
9 told her to orally copulate you. You think you're still
10 capable of doing that?

11 INMATE MORRISON: Oh, no, no.

12 PRESIDING COMMISSIONER BIGGERS: What has changed?

13 INMATE MORRISON: I'm a changed person. I'm a
14 changed person.

15 PRESIDING COMMISSIONER BIGGERS: In what way, sir?

16 INMATE MORRISON: I'm matured. I was illiterate,
17 dumb. I got my GED now. I got my welding certificate.
18 I got stability in my life now. I was dumb. I don't
19 even blame them guys no more because I had the
20 opportunity to say no and I didn't, so I should of left,
21 and I did not leave. I'm not the same person I was back
22 then.

23 PRESIDING COMMISSIONER BIGGERS: Okay. All right.

24 Like I said, I'm not here to retry your case, so I'm
25 going to move over to your social, but you did say you
26 have remorse for the victim?

27 INMATE MORRISON: Very much.

1 PRESIDING COMMISSIONER BIGGERS: And that's
2 primarily because you've been raped here, and you also
3 were molested as child?

4 INMATE MORRISON: No, because it should of never
5 happened.

6 PRESIDING COMMISSIONER BIGGERS: Okay. Okay. You
7 were raised primarily by your mother?

8 INMATE MORRISON: Back and forth.

9 PRESIDING COMMISSIONER BIGGERS: Okay. How many
10 children were in the family, sir?

11 INMATE MORRISON: Six.

12 PRESIDING COMMISSIONER BIGGERS: Six. How many
13 boys? How many girls?

14 INMATE MORRISON: Two boys.

15 PRESIDING COMMISSIONER BIGGERS: And four girls?

16 INMATE MORRISON: Yes, sir.

17 PRESIDING COMMISSIONER BIGGERS: Were any of them
18 involved with the law?

19 INMATE MORRISON: No.

20 PRESIDING COMMISSIONER BIGGERS: You're the only
21 one?

22 INMATE MORRISON: My brother -- my brother is.

23 PRESIDING COMMISSIONER BIGGERS: What did he do?

24 INMATE MORRISON: He burglarized a house.

25 PRESIDING COMMISSIONER BIGGERS: Burglarized a
26 house?

27 INMATE MORRISON: Yes.

1 PRESIDING COMMISSIONER BIGGERS: Did he go the YA?

2 INMATE MORRISON: He's locked upright now.

3 PRESIDING COMMISSIONER BIGGERS: In YA or --

4 INMATE MORRISON: No, no, he's in prison somewhere.

5 PRESIDING COMMISSIONER BIGGERS: Okay. So you don't
6 correspond with him?

7 INMATE MORRISON: No, I do not.

8 PRESIDING COMMISSIONER BIGGERS: Do you correspond
9 with the rest of your family?

10 INMATE MORRISON: Yes, I do.

11 PRESIDING COMMISSIONER BIGGERS: Okay. Do they come
12 and see you?

13 INMATE MORRISON: Yes, they do.

14 PRESIDING COMMISSIONER BIGGERS: How often?

15 INMATE MORRISON: Maybe every 90 days, once every 90
16 days.

17 PRESIDING COMMISSIONER BIGGERS: Okay. And I see
18 that you -- you moved between your mother and father's
19 house. Was there a lot of discipline in the house?

20 INMATE MORRISON: Yes, there was.

21 PRESIDING COMMISSIONER BIGGERS: If there was a lot
22 of discipline, why would you get involved in something
23 like this? And please don't say because I was dumb and
24 immature.

25 INMATE MORRISON: I don't know.

26 PRESIDING COMMISSIONER BIGGERS: You don't know.

27 Okay. I see that you experimented with marijuana?

1 INMATE MORRISON: Yes, I have.

2 PRESIDING COMMISSIONER BIGGERS: And you had a heavy
3 -- substance abuse did not appear to be a factor. Were
4 you drinking that day?

5 INMATE MORRISON: Wasn't drinking. Wasn't on drugs.

6 PRESIDING COMMISSIONER BIGGERS: So you just went
7 along for a robbery because that's what you guys wanted
8 to do, and it ended up being all the other stuff?

9 INMATE MORRISON: Yes, I guess that's a true
10 statement.

11 PRESIDING COMMISSIONER BIGGERS: Okay. On your
12 juvenile record you were first arrested at age 13 for
13 petty theft, and that was done twice wasn't it, 11/22/77
14 and 12/31/77 for petty theft? You were placed on
15 probation both times. Is that correct?

16 INMATE MORRISON: Yes, sir.

17 PRESIDING COMMISSIONER BIGGERS: So you were on
18 probation when this crime --

19 INMATE MORRISON: No.

20 PRESIDING COMMISSIONER BIGGERS: You were not on
21 probation when this crime --

22 INMATE MORRISON: No.

23 PRESIDING COMMISSIONER BIGGERS: -- took place?

24 INMATE MORRISON: No.

25 PRESIDING COMMISSIONER BIGGERS: How much probation
26 did they give you?

27 INMATE MORRISON: I think they gave me a year.

1 PRESIDING COMMISSIONER BIGGERS: A year?

2 INMATE MORRISON: Yeah, but I'm not for sure though.

3 PRESIDING COMMISSIONER BIGGERS: Okay.

4 INMATE MORRISON: The crime took place in '81.

5 PRESIDING COMMISSIONER BIGGERS: Right. Yeah,

6 you're right. But be that as it may, you were given the
7 opportunity to go straight?

8 INMATE MORRISON: Straighten up, exactly.

9 PRESIDING COMMISSIONER BIGGERS: But you elected not
10 to do that. Is that correct?

11 INMATE MORRISON: I guess you can say that's fair
12 statement.

13 PRESIDING COMMISSIONER BIGGERS: Okay. All right.
14 Is there anything that I left out in either your social
15 or your priors or in the commitment offense that you want
16 to discuss with this Panel?

17 INMATE MORRISON: Other than I'm very remorseful for
18 the lady.

19 PRESIDING COMMISSIONER BIGGERS: I understand that,
20 and we'll get into that a little later on.

21 INMATE MORRISON: All right.

22 PRESIDING COMMISSIONER BIGGERS: You'll get a chance
23 to make a statement prior to the end of the hearing.
24 Then at this point if Deputy Commissioner Morrison
25 doesn't have anything about the things I asked about, do
26 you want to talk about the crime?

27 DEPUTY COMMISSIONER MORRIS: Let me ask you one

1 quick question here. You have a prior robbery at a
2 service station?

3 INMATE MORRISON: I don't know if it was at a --

4 DEPUTY COMMISSIONER MORRIS: Prior offenses, it
5 seems to indicate that there was a prior robbery. You
6 got away with it, it sounds like, avoided some officers
7 and possibly being shot?

8 PRESIDING COMMISSIONER BIGGERS: I didn't see
9 that --

10 INMATE MORRISON: No.

11 PRESIDING COMMISSIONER BIGGERS: -- in the file.

12 INMATE MORRISON: No, not me. That's somebody else.
13 The only thing I have is the petty thefts. That's the
14 only thing, and the indecent exposure.

15 DEPUTY COMMISSIONER MORRIS: Okay. '77 --

16 PRESIDING COMMISSIONER BIGGERS: Where is that?

17 DEPUTY COMMISSIONER MORRIS: -- against property,
18 formal probation following those two counts of indecent
19 exposure. Okay. Here is says probation for stealing a
20 purse from an elderly woman and committing a gas station
21 robbery on a dare. At that time --

22 INMATE MORRISON: I remember the purse -- snatching
23 the purse, but committing the robbery at a gas station,
24 no.

25 DEPUTY COMMISSIONER MORRIS: No?

26 INMATE MORRISON: No.

27 DEPUTY COMMISSIONER MORRIS: There's another -- it

1 says, however, when you encountered suspicious officers
2 who then discovered a concealed weapon.

3 **INMATE MORRISON:** That was two different -- two
4 different offenses. When they caught me with a concealed
5 weapon, that had nothing to do with the robbery.

6 **PRESIDING COMMISSIONER BIGGERS:** They didn't even
7 show that in the --

8 **DEPUTY COMMISSIONER MORRIS:** Was your intent at that
9 time to rob that's why you had the gun at that time?

10 **INMATE MORRISON:** Probably so.

11 **DEPUTY COMMISSIONER MORRIS:** So you had a prior --
12 you intended to complete a robbery before. That was
13 foiled, and then you had this indecent exposure. You say
14 one instance of indecent exposure?

15 **INMATE MORRISON:** Right.

16 **DEPUTY COMMISSIONER MORRIS:** The file seems to
17 indicate maybe two, but you're saying it was one
18 instance?

19 **INMATE MORRISON:** Yep.

20 **DEPUTY COMMISSIONER MORRIS:** Okay.

21 **INMATE MORRISON:** I mean, if they give two counts,
22 two counts on one.

23 **DEPUTY COMMISSIONER MORRIS:** Okay. I just wanted to
24 be clear about that. Okay. That's it.

25 **PRESIDING COMMISSIONER BIGGERS:** Okay. Then would
26 you please go into the post-conviction factors.

27 **DEPUTY COMMISSIONER MORRIS:** Okay. Mr. Morrison,

1 this is -- let's see what we have here. This is
2 subsequent parole consideration hearing number two for
3 you? You had number one in '04?

4 INMATE MORRISON: Think it's more than two. I think
5 this is the third time I've been --

6 DEPUTY COMMISSIONER MORRIS: The first was an
7 initial.

8 INMATE MORRISON: Right.

9 DEPUTY COMMISSIONER MORRIS: The first was an
10 initial, and then you had a subsequent.

11 INMATE MORRISON: Right.

12 DEPUTY COMMISSIONER MORRIS: And this is subsequent
13 number two?

14 INMATE MORRISON: Right.

15 DEPUTY COMMISSIONER MORRIS: Okay. And that
16 occurred on 8/2 of '04, and at that time you suffered a
17 two-year denial?

18 INMATE MORRISON: Exactly.

19 DEPUTY COMMISSIONER MORRIS: Okay. And looks like
20 you've had a series of two-year denials going back to,
21 let's see '97?

22 INMATE MORRISON: '97, exactly.

23 DEPUTY COMMISSIONER MORRIS: I'm looking at a
24 classification score of 19 here, and that's as low as
25 your life crime will allow. I also see a gang sheet, an
26 812. The 812 is clear. You came to prison at, what 18
27 years old?

1 INMATE MORRISON: Excuse me, what did you say about
2 gang? I didn't hear you.

3 DEPUTY COMMISSIONER MORRIS: I'm looking at a gang
4 sheet.

5 INMATE MORRISON: Oh, all right.

6 DEPUTY COMMISSIONER MORRIS: And the 812 is clear.

7 INMATE MORRISON: Oh, all right.

8 DEPUTY COMMISSIONER MORRIS: Okay. And you came to
9 prison at about 18? How old were you when you got
10 prison? You were 17 when the offense occurred.

11 INMATE MORRISON: I did a 90-day observation. I
12 came -- 18.

13 DEPUTY COMMISSIONER MORRIS: 18, okay. And my
14 question is how did you avoid gang affiliation, gang
15 association, youngster 18 in prison?

16 INMATE MORRISON: I've never been into gangs, never.
17 I've been stabbed in the back on the streets by some gang
18 members, so that never been me.

19 DEPUTY COMMISSIONER MORRIS: Okay.

20 INMATE MORRISON: Never.

21 DEPUTY COMMISSIONER MORRIS: All right. I'm also
22 looking at a -- I see that you got a GED in '96?

23 INMATE MORRISON: Yes.

24 DEPUTY COMMISSIONER MORRIS: Now, since '96 have you
25 taken any additional classes?

26 INMATE MORRISON: I took a few bible classes, but as
27 far as -- what do you mean as far as college classes?

1 DEPUTY COMMISSIONER MORRIS: Collegiate classes,
2 right.

3 INMATE MORRISON: No.

4 DEPUTY COMMISSIONER MORRIS: No correspondence
5 courses, college classes at all?

6 INMATE MORRISON: No, I just got over here in
7 October. I was over there in the other yard, and we was
8 locked down all the time.

9 DEPUTY COMMISSIONER MORRIS: That's okay. You've
10 been in prison it looks like 22 years?

11 INMATE MORRISON: 25.

12 DEPUTY COMMISSIONER MORRIS: 25, okay, long time.
13 It looks to me that you were received in '83?

14 INMATE MORRISON: Yeah, well I did two in the
15 county.

16 DEPUTY COMMISSIONER MORRIS: Okay.

17 INMATE MORRISON: Right.

18 DEPUTY COMMISSIONER MORRIS: Okay. You came to
19 prison in '83, so that looks like about 23 years in
20 prison.

21 INMATE MORRISON: All right.

22 DEPUTY COMMISSIONER MORRIS: And I'm looking at that
23 GED in '96, and so my natural question would be the GED
24 is just simply not enough. Have you done anything with
25 it, or have you even thought about doing anymore?

26 INMATE MORRISON: Anymore classes?

27 DEPUTY COMMISSIONER MORRIS: Uh-huh.

1 INMATE MORRISON: Yes, I signed up for some classes
2 already.

3 DEPUTY COMMISSIONER MORRIS: Okay.

4 INMATE MORRISON: I signed up for college course
5 classes.

6 DEPUTY COMMISSIONER MORRIS: Okay.

7 INMATE MORRISON: And some more bible study classes.

8 DEPUTY COMMISSIONER MORRIS: Okay. I'm looking at
9 vocational programming. What I see is one vocation
10 completed, that's the vocational welding?

11 INMATE MORRISON: Exactly.

12 DEPUTY COMMISSIONER MORRIS: Okay. And when did you
13 start that?

14 INMATE MORRISON: Vocational welding?

15 DEPUTY COMMISSIONER MORRIS: When did you start that
16 class? You graduated -- or you completed that program in
17 '02, so you've been to a couple hearings --

18 INMATE MORRISON: Yeah.

19 DEPUTY COMMISSIONER MORRIS: -- by then?

20 INMATE MORRISON: '02.

21 DEPUTY COMMISSIONER MORRIS: So when did you take --
22 when did you start it?

23 INMATE MORRISON: When did I start it, I think
24 either 2000 or 2001.

25 DEPUTY COMMISSIONER MORRIS: Okay. So it took a
26 couple years to get through?

27 INMATE MORRISON: Yeah.

1 DEPUTY COMMISSIONER MORRIS: That's about right.

2 INMATE MORRISON: Yeah.

3 DEPUTY COMMISSIONER MORRIS: And my question would
4 be why did it take you so long to finally decide you want
5 to program vocationally? It took you like three years.

6 INMATE MORRISON: Like I said, I didn't want no
7 other trade. That's the only trade I wanted because my
8 step dad that works in Douglas Aircraft, he can give me a
9 good job.

10 DEPUTY COMMISSIONER MORRIS: Yeah.

11 INMATE MORRISON: I didn't want no other trade.

12 DEPUTY COMMISSIONER MORRIS: Okay.

13 INMATE MORRISON: Didn't nothing interest me but
14 welding. That's all I wanted to do.

15 DEPUTY COMMISSIONER MORRIS: Okay. You went through
16 several documentation hearings, and they talked to you
17 about completing vocational programmings and doing the
18 kind of things that would make you marketable at this
19 kind of a hearing, that included having certificates of
20 completion. You didn't believe that?

21 INMATE MORRISON: Yes, I believed it.

22 DEPUTY COMMISSIONER MORRIS: Okay.

23 INMATE MORRISON: Yes, I believed it.

24 DEPUTY COMMISSIONER MORRIS: All right. So 20 years
25 or so --

26 INMATE MORRISON: I took anger -- I finished anger
27 management.

1 DEPUTY COMMISSIONER MORRIS: That's a whole
2 different topic.

3 INMATE MORRISON: Whole different topic.

4 DEPUTY COMMISSIONER MORRIS: We'll get to that in a
5 minute. So at any rate you finished one program in the
6 23 years. Let me chat with you about disciplinaries
7 quickly here. I see that your last disciplinary was
8 2/27/04, stealing State food, but what I see is that --
9 well, you were just a serious institution management
10 problem for a lot of years, right up until the last 115,
11 2004. I'm talking about from '84 to 2004, 20 years?

12 INMATE MORRISON: Yes, I was.

13 DEPUTY COMMISSIONER MORRIS: What's going on? Tell
14 me about that. What were you thinking?

15 INMATE MORRISON: Bozo. Just a bozo.

16 DEPUTY COMMISSIONER MORRIS: And I ask you that
17 because you were talking about your level of maturity --

18 INMATE MORRISON: Right.

19 DEPUTY COMMISSIONER MORRIS: -- and some of the
20 growth and development. And I'm looking at madness,
21 assaultive, aggressive, disobeying orders, sexual
22 behavior, inmate alcohol, threatening staff. Okay. And
23 on the heels of that, immediately on the heels of all of
24 that, I see the 17 disciplinaries over your life of
25 incarceration, since the last hearing -- well, you
26 haven't had any since the last hearing. The last 115 you
27 got was just before the last hearing?

1 INMATE MORRISON: Right.

2 DEPUTY COMMISSIONER MORRIS: About six months, but
3 I'm also looking at a laundry list of negative chronos.
4 More negative chronos than 115s. Any one could of easily
5 been a full blown 115. Staff -- looks like they just got
6 tired of writing, gave you, what, 21 negative chronos.

7 The last one is dated 12/17 of '94, delaying count.

8 Okay. Anything you want to tell me about that behavior?

9 Where are you today?

10 INMATE MORRISON: As far as the behavior?

11 DEPUTY COMMISSIONER MORRIS: Uh-huh.

12 INMATE MORRISON: I done clean my act up. I'm
13 clean.

14 DEPUTY COMMISSIONER MORRIS: Okay. Well, you're
15 clean since 2004?

16 INMATE MORRISON: I'm clean.

17 DEPUTY COMMISSIONER MORRIS: All right. So it looks
18 like you got two years and about five months working --

19 INMATE MORRISON: Yeah.

20 DEPUTY COMMISSIONER MORRIS: -- of 23 years. Okay.
21 I would ask you about your work record, but it looks like
22 with all this you probably haven't had a lot of
23 opportunities to do any institution work, or have you?
24 Tell me about that.

25 INMATE MORRISON: As far as working --

26 DEPUTY COMMISSIONER MORRIS: Yeah.

27 INMATE MORRISON: -- in the institution?

1 DEPUTY COMMISSIONER MORRIS: Working at a job for
2 the institution.

3 INMATE MORRISON: I was working in the culinary over
4 here in north over here.

5 DEPUTY COMMISSIONER MORRIS: Culinary?

6 INMATE MORRISON: Yeah.

7 DEPUTY COMMISSIONER MORRIS: Is that where you're
8 working now?

9 INMATE MORRISON: No, I don't have a job now.

10 DEPUTY COMMISSIONER MORRIS: How long did you work
11 culinary in north?

12 INMATE MORRISON: I believe two or three years.

13 DEPUTY COMMISSIONER MORRIS: Any work prior to that?

14 INMATE MORRISON: No, I think I was in the Porter
15 position.

16 DEPUTY COMMISSIONER MORRIS: Porter?

17 INMATE MORRISON: Yeah.

18 DEPUTY COMMISSIONER MORRIS: Okay. I did not look
19 at the work chronos, and they should be right here.

20 ATTORNEY CHRISTENSEN: He has -- his most recent one
21 is on 12/9 of '04. That's a laudatory chrono from the
22 culinary.

23 DEPUTY COMMISSIONER MORRIS: Okay. I see cook, '98,
24 Centinela, food service; Centinela, reheating food. Then
25 you got into a prevoc for a minute. Then what else?
26 Then you got into welding, welding shop, welding shop,
27 evening meals, cook. Largely cook duties, that kind of

1 thing?

2 INMATE MORRISON: Yes.

3 DEPUTY COMMISSIONER MORRIS: Okay. Let me just see
4 what the reports say. I didn't really pay attention to
5 that. What kind of grades did you get? I'm looking at a
6 lot of satisfactory markings, satisfactory, satisfactory,
7 above average, some satisfactory, mostly satisfactory
8 with some above average. Is that you? You need to
9 answer for me.

10 INMATE MORRISON: Yes.

11 DEPUTY COMMISSIONER MORRIS: Okay. Self-help,
12 listening to your testimony, you talked about some of the
13 things you've been involved in. I heard some talk about
14 marijuana. How about alcohol, involved in alcohol use?

15 INMATE MORRISON: No more.

16 DEPUTY COMMISSIONER MORRIS: Any other drug use?

17 INMATE MORRISON: No.

18 DEPUTY COMMISSIONER MORRIS: Did you consider
19 yourself an alcoholic, drug abuser?

20 INMATE MORRISON: No, sir.

21 DEPUTY COMMISSIONER MORRIS: Okay. You were pretty
22 young when you came to prison, how often were you using
23 marijuana?

24 INMATE MORRISON: I believe I used it twice.

25 DEPUTY COMMISSIONER MORRIS: Were you under the
26 influence at the time of the life crime?

27 INMATE MORRISON: No, I was not.

1 DEPUTY COMMISSIONER MORRIS: The car didn't belong
2 to you, is that what you said? Who did the car belonged
3 to that was involved, the Mustang?

4 INMATE MORRISON: Oh, I don't know who the -- I
5 don't know where that Mustang --

6 DEPUTY COMMISSIONER MORRIS: You didn't own a car?

7 INMATE MORRISON: No.

8 DEPUTY COMMISSIONER MORRIS: Okay.

9 INMATE MORRISON: I owned a car, but it wasn't there
10 though. It wasn't in the crime.

11 DEPUTY COMMISSIONER MORRIS: Okay. I see that you
12 participated in AA, it looks like about going back to '96
13 or so. When did you participate in AA or NA last?

14 INMATE MORRISON: I was over in north, I believe,
15 about two and a half years ago, but we stay on lockdown
16 over there so there was no attending. I signed up over
17 here since I've been -- I got here in October and --

18 DEPUTY COMMISSIONER MORRIS: Participation in NA/AA
19 is not restricted to just going to a group now. You can
20 do some other things. Have you ever heard of independent
21 study?

22 INMATE MORRISON: Yes, I have.

23 DEPUTY COMMISSIONER MORRIS: Okay.

24 INMATE MORRISON: Yes, I have.

25 DEPUTY COMMISSIONER MORRIS: So when did you attend
26 last, you said about a couple years ago?

27 INMATE MORRISON: It had to be over two years.

1 DEPUTY COMMISSIONER MORRIS: And how long did you
2 participate?

3 INMATE MORRISON: Every time they had it when we
4 wasn't on lockdown. We stay on lockdown over there.

5 DEPUTY COMMISSIONER MORRIS: And you've had prior
6 hearings where they talked about participation in NA and
7 AA?

8 INMATE MORRISON: Yes, I have. I'm on the waiting
9 list right now for AA.

10 DEPUTY COMMISSIONER MORRIS: You don't have to wait.

11 INMATE MORRISON: Yeah, I know. That's what my
12 lawyer was telling me.

13 DEPUTY COMMISSIONER MORRIS: Okay.

14 INMATE MORRISON: That I can get my books. That I
15 don't have to wait, and I can get the books and start
16 studying myself.

17 DEPUTY COMMISSIONER MORRIS: You have several
18 hundreds of thousands dollars -- of dollars spent on
19 every yard. You got a computer system and paging system
20 on the yard, right? You got a library there?

21 INMATE MORRISON: Yeah, we got a library.

22 DEPUTY COMMISSIONER MORRIS: You have a paging
23 system there and there's a librarian there.

24 INMATE MORRISON: Yeah.

25 DEPUTY COMMISSIONER MORRIS: So you can draw that
26 information. If you get that information, you can study.
27 I'm just sharing that information with you. You know, in

1 the event that you're not successful today, maybe that
2 will help you. I don't see -- I don't see any other AA.
3 I saw the 26-week course you took in '96, and that's all
4 I see.

5 INMATE MORRISON: Well, I didn't complete it.

6 DEPUTY COMMISSIONER MORRIS: Okay.

7 INMATE MORRISON: You don't get no chronos until you
8 complete it.

9 DEPUTY COMMISSIONER MORRIS: You don't complete AA.

10 It's ongoing.

11 INMATE MORRISON: Yeah, I know. I'm just saying as
12 far as your records, for your records you're not going to
13 get anything saying that I was there.

14 DEPUTY COMMISSIONER MORRIS: You're going to get
15 something every quarter if you participate.

16 INMATE MORRISON: Wasn't there every quarter.

17 That's what I keep telling you.

18 DEPUTY COMMISSIONER MORRIS: All right. You weren't
19 there every quarter?

20 INMATE MORRISON: No.

21 DEPUTY COMMISSIONER MORRIS: So what I'm telling you
22 is you need to consider -- maybe you ought to consider
23 participating.

24 INMATE MORRISON: Okay.

25 DEPUTY COMMISSIONER MORRIS: So you can accrue, so
26 you can earn some favorable chronos regarding that.
27 Okay?

1 INMATE MORRISON: All right.

2 DEPUTY COMMISSIONER MORRIS: All right. So you
3 haven't done much there. Laudatories, I don't see any
4 laudatories. Anybody have any good thing to say about
5 you? Anybody ever give you a at-a-boy chrono?

6 ATTORNEY CHRISTENSEN: He has some --

7 INMATE MORRISON: I got laudatory chronos.

8 ATTORNEY CHRISTENSEN: -- that we submitted.

9 DEPUTY COMMISSIONER MORRIS: Okay. What do you got
10 since 2004? I don't see anything. I'm looking right at
11 it right here. What is this? This is a --

12 PRESIDING COMMISSIONER BIGGERS: 2003, assist an
13 inmate in distress.

14 DEPUTY COMMISSIONER MORRIS: Okay, that was 2003.

15 Anything since your last hearing, since 2004?

16 INMATE MORRISON: I should of had another chrono in
17 there, a working chrono come from the free cook.

18 ATTORNEY CHRISTENSEN: Only the culinary.

19 DEPUTY COMMISSIONER MORRIS: I see a laudatory. I
20 take it back, culinary, cook crew, January of '04.

21 INMATE MORRISON: Okay.

22 DEPUTY COMMISSIONER MORRIS: January 18th of '04.

23 Okay. My bad, I miss that one, 1/18 of '04, culinary.

24 Anything else? Anything else I missed? I don't see
25 anymore. I'm down to '02 now. That was up at that time
26 top here. Okay. Got it. Okay. There's a psych report
27 here, Mr. Morrison, and there's a late edition here.

1 Let's see. There's an addendum dated July '06. Let's
2 see what I have here -- July '06. This psychological
3 report is authored by Macomber?

4 **INMATE MORRISON:** Yes.

5 **DEPUTY COMMISSIONER MORRIS:** And I'm looking at Page
6 Two, current diagnostic impressions, and he's -- he's
7 made some determinations about you and under various
8 axis. Under Axis I: He describes you as having Alcohol
9 Abuse in Institutional Remission. There's Cannabis use
10 in Institutional Remission. And I thought I saw some
11 115s that talked about alcohol use in the institution. I
12 did. Here's alcohol use, 2001 and 2002. That's very
13 recent alcohol use in my mind. You were a wine maker?
14 You were the wine maker, sir?

15 **INMATE MORRISON:** Yes, I did.

16 **DEPUTY COMMISSIONER MORRIS:** Okay. Under Axis II:
17 I see -- he describes you as Antisocial Personality
18 Disorder Improving. Under Axis III: He says that there
19 are No Physical Disorders. Axis IV: Talks about the
20 Life Term, which includes the Life Crime. Under Axis V:
21 There is a Global Assessment Functioning Score of 85,
22 which is a pretty good score. Under Section 14,
23 assessment of dangerousness, he has -- talks about
24 potential for dangerous behavior while in the
25 institution. He says that Mr. Morrison has a significant
26 history of disciplinaries in the institution; however,
27 there is no evidence of violence in these disciplinaries.

1 However, I would argue that the kind of disciplinaries
2 you have certainly are prime movers for violence in the
3 institution, especially when we have inmates getting
4 drunk and becoming a major institution management
5 problem, as well as there's that marijuana possession,
6 the alcohol use, possession of altered television.
7 That's kind of stuff that drives violence in the
8 institution. Who did the television belong to?

9 INMATE MORRISON: Mine.

10 DEPUTY COMMISSIONER MORRIS: Yours?

11 INMATE MORRISON: Yeah.

12 DEPUTY COMMISSIONER MORRIS: Not to another inmate?

13 INMATE MORRISON: No.

14 DEPUTY COMMISSIONER MORRIS: Not strong-armed from
15 someone?

16 INMATE MORRISON: No.

17 DEPUTY COMMISSIONER MORRIS: Okay. Disobeying
18 direct orders, disobeying orders, all of that,
19 threatening staff, all of that drives violence in the
20 institution, so I'm not quite clear where the
21 psychologist is with respect to his description of your
22 disciplinary history. He says that you have not been in
23 possession of weapons.

24 INMATE MORRISON: No.

25 DEPUTY COMMISSIONER MORRIS: He also goes on to say
26 that in comparison to other inmates potential for
27 dangerous behavior appears to be below average. Okay.

1 Paragraph B, he talks about your potential for dangerous
2 behavior in the community. He talks about the fact that
3 this occurred over 25 years ago. You were 17 years of
4 age. The psychologist says -- states here that you've
5 grown up, matured and stabilized. You're now active in
6 the Chapel ministering to others. I didn't see any of
7 that under self-help. Have you been participating in --

8 **INMATE MORRISON:** Yeah.

9 **DEPUTY COMMISSIONER MORRIS:** -- ministries?

10 **INMATE MORRISON:** I think she has it over there, the
11 chrono.

12 **DEPUTY COMMISSIONER MORRIS:** Okay.

13 **INMATE MORRISON:** There's another one.

14 **DEPUTY COMMISSIONER MORRIS:** Psychologist continues
15 by saying there's evidence that your life has changed,
16 talks about the Level of Service Inventory Test that was
17 administered. You obtained a score of 6.5 cumulative
18 frequency for community offenders. This score means that
19 if 100 men were released on parole that you would be
20 expected to be better than 93.6 percent of them. This is
21 a low risk level. That you do not appear to pose any
22 more risk to society than the average citizen in the
23 community. The psychologist says in his mind there are
24 no significant risk factors. Under Section 15, clinical
25 observations, comments, recommendations, the psychologist
26 states that there are no mental or emotional problems in
27 this case that would interfere with routine parole

1 planning. Mr. Morrison does have vocational skills that
2 he has acquired in the institution, talks about the job
3 offer from the stepfather. He closes out his comments by
4 saying that -- the last sentence that the prognosis at
5 this point in time for successful adjustment in the
6 community appears to be good.

7 **ATTORNEY CHRISTENSEN:** Commissioner --

8 **DEPUTY COMMISSIONER MORRIS:** Those are comments --

9 **ATTORNEY CHRISTENSEN:** -- if we can go back.

10 **DEPUTY COMMISSIONER MORRIS:** Those are comments as
11 made by Macomber. Let me just ask you now, do you have
12 some additional comments regarding some of that?

13 **ATTORNEY CHRISTENSEN:** Just to go back one second to
14 the self-help part. I believe that I gave you a chrono
15 for his participation in the Chapel.

16 **INMATE MORRISON:** Yeah.

17 **ATTORNEY CHRISTENSEN:** Is that what the chrono said?

18 Is that it?

19 **DEPUTY COMMISSIONER MORRIS:** Okay. I do see the
20 chrono that you brought. I didn't see that earlier.

21 **ATTORNEY CHRISTENSEN:** Oh, I want to make sure he
22 gets credit.

23 **DEPUTY COMMISSIONER MORRIS:** Okay. For the record,
24 let's memorialize it right now.

25 **ATTORNEY CHRISTENSEN:** Thank you.

26 **DEPUTY COMMISSIONER MORRIS:** I'm looking at a chrono
27 dated June 6, 2006, that you brought in. It talks about

1 your participation in the Protestant Chapel program for
2 the past five years. Okay. However, I cannot include
3 this in the C file, so I'm going to give it right back to
4 you, but for purposes of this hearing it has been
5 considered, and I'm going to indicate that.

6 **PRESIDING COMMISSIONER BIGGERS:** Okay. Also I have
7 a chrono here, I don't know if you have that. That was
8 about inmate was crushed under a cold cart with a large
9 amount of food, and Inmate Morrison assisted in the
10 lifting of the cold cart.

11 **DEPUTY COMMISSIONER MORRIS:** I don't have any of
12 that either. This is a laudatory chrono. You brought
13 this in today as well?

14 **INMATE MORRISON:** Yes, I did.

15 **ATTORNEY CHRISTENSEN:** Yes.

16 **DEPUTY COMMISSIONER MORRIS:** Okay. And it looks
17 official enough. The chrono is authored by Correctional
18 Officer Goodlet (phonetic). Okay. It looks like three
19 chronos of the same issue, November 19: "Had the
20 opportunity to witness the excellent response of Inmate
21 Morrison when an inmate was crushed under a cold cart
22 with a large amount of food in it. Inmate Morrison
23 assisted in lifting the cold cart off the individual and
24 proceeded to notify staff that there was a man down in
25 the back dock area. Morrison continued providing ice to
26 this individual's possible neck injury. Inmate
27 Morrison's nurturing attitude displays that his

1 rehabilitation has proved effective for him. Okay.

2 ATTORNEY CHRISTENSEN: Thank you.

3 DEPUTY COMMISSIONER MORRIS: For the record, that
4 laudatory --

5 ATTORNEY CHRISTENSEN: Interestingly enough that's
6 the second chrono that he's had for helping to save
7 another inmate from serious injury and/or death. The one
8 prior to -- was it '03?

9 INMATE MORRISON: '03.

10 ATTORNEY CHRISTENSEN: Uh-huh.

11 DEPUTY COMMISSIONER MORRIS: And saw that one.

12 ATTORNEY CHRISTENSEN: What happened with that one?

13 INMATE MORRISON: Having hard problems with
14 breathing -- when an inmate had a hard problems with
15 breathing.

16 DEPUTY COMMISSIONER MORRIS: And you made contact
17 with staff and got medical over there, and the guy was in
18 surgery the next day I believe, is what the chrono said.

19 INMATE MORRISON: Yeah.

20 DEPUTY COMMISSIONER MORRIS: That was prior to the
21 last hearing?

22 INMATE MORRISON: Right.

23 DEPUTY COMMISSIONER MORRIS: Okay. I'm going to
24 give this back to you as well. That's another at-a-boy
25 that needs to be processed. Chances are it's probably
26 laying in a record somewhere and just hasn't been filed.
27 There's probably a backlog of filing.

1 INMATE MORRISON: I believe it's in there because
2 when I had my Olson review, I think I seen it in there.

3 DEPUTY COMMISSIONER MORRIS: All right.

4 INMATE MORRISON: I think the only one that wasn't
5 in there was the one that was on the paper because my
6 counselor just wrote that up and misplaced it.

7 DEPUTY COMMISSIONER MORRIS: Well, it's there now.

8 INMATE MORRISON: Okay.

9 DEPUTY COMMISSIONER MORRIS: I'm going to include
10 it. Okay. All right. Anything else regarding post-
11 conviction factors, Counsel?

12 ATTORNEY CHRISTENSEN: No.

13 DEPUTY COMMISSIONER MORRIS: All right. Absent
14 additional testimony specific to post-conviction, I yield
15 to the Chair.

16 PRESIDING COMMISSIONER BIGGERS: Okay. One last
17 question before I go into your parole plans, when did you
18 -- can you give me a timeframe, and I may of missed this,
19 but I lost it in my train of thought, did you finally
20 come to the realization that you were going to come clean
21 and say that you were there at the crime?

22 INMATE MORRISON: My dad passed in 2002.

23 PRESIDING COMMISSIONER BIGGERS: 2002?

24 INMATE MORRISON: Yeah.

25 PRESIDING COMMISSIONER BIGGERS: Okay.

26 INMATE MORRISON: I had a big problem with my dad
27 knowing that I had any type of part with it. So when my

1 dad passed before -- I didn't even know he was going to
2 say he did investigations, and I came out before he did -
3 - before he said anything. He said we already
4 investigated and we already know it isn't right. I said
5 well, I'm telling you know. Where before -- I didn't
6 even know that was going happen.

7 **PRESIDING COMMISSIONER BIGGERS:** Before who did an
8 investigation?

9 **INMATE MORRISON:** Before Welch.

10 **PRESIDING COMMISSIONER BIGGERS:** Commissioner Welch
11 did his investigation?

12 **INMATE MORRISON:** Right.

13 **PRESIDING COMMISSIONER BIGGERS:** All right. I'm
14 going to move into your parole plans right now. You said
15 that you will be residing with your mother Cassie Nixon
16 (phonetic) --

17 **INMATE MORRISON:** Yes.

18 **PRESIDING COMMISSIONER BIGGERS:** -- at 1031 East
19 126th Street in LA?

20 **INMATE MORRISON:** Yes.

21 **PRESIDING COMMISSIONER BIGGERS:** Okay. I don't see
22 -- do you have a letter from her?

23 **INMATE MORRISON:** It should be right there too.

24 **PRESIDING COMMISSIONER BIGGERS:** Okay. What are you
25 going to do for employment?

26 **INMATE MORRISON:** I'm planning on welding for
27 employment.

1 PRESIDING COMMISSIONER BIGGERS: I see here, and I'm
2 going to read the letters in just a minute --

3 INMATE MORRISON: All right.

4 PRESIDING COMMISSIONER BIGGERS: -- but I saw in
5 here where Britney Cavanaugh (phonetic), who is she?

6 INMATE MORRISON: Who.

7 PRESIDING COMMISSIONER BIGGERS: Britney Cavanaugh?

8 INMATE MORRISON: That's my niece.

9 PRESIDING COMMISSIONER BIGGERS: She said her mother
10 owns her own business. She will employ my uncle upon his
11 release. What kind of job was it going to be?

12 INMATE MORRISON: Mother do real estate.

13 PRESIDING COMMISSIONER BIGGERS: Real estate. And
14 how can she employ you? What do you have to offer her in
15 way of real estate?

16 INMATE MORRISON: It's my sister.

17 PRESIDING COMMISSIONER BIGGERS: I understand that.

18 INMATE MORRISON: Right.

19 PRESIDING COMMISSIONER BIGGERS: I'm telling you
20 what skills --

21 INMATE MORRISON: What type of skills do I have in
22 real estate?

23 PRESIDING COMMISSIONER BIGGERS: Yes.

24 INMATE MORRISON: None.

25 PRESIDING COMMISSIONER BIGGERS: How can she give
26 you a job?

27 INMATE MORRISON: I don't know, she says she can

1 help me out. I don't know.

2 PRESIDING COMMISSIONER BIGGERS: Okay.

3 INMATE MORRISON: I would have to learn about real
4 estate before I can get into real estate.

5 PRESIDING COMMISSIONER BIGGERS: So you don't have
6 any employment plans at this point?

7 INMATE MORRISON: No, nothing.

8 PRESIDING COMMISSIONER BIGGERS: Okay.

9 INMATE MORRISON: No.

10 PRESIDING COMMISSIONER BIGGERS: All right. But you
11 do have a marketable skill, you know, you got that
12 welding as a marketable skill.

13 INMATE MORRISON: Right.

14 PRESIDING COMMISSIONER BIGGERS: All right. At this
15 point I'm going to go into your support letters. The
16 first one is from Britney Cavanaugh. She says she's 17
17 years old and currently a senior in high school, and she
18 plans to go high school and become a English professor
19 when she graduates. She's concerned about you. "The
20 man's only crime was being in the wrong place at the
21 wrong time, and that's why I'm writing to you because
22 three more generations have rolled around." She has a
23 four-month old daughter?

24 INMATE MORRISON: Yes.

25 PRESIDING COMMISSIONER BIGGERS: Okay. And she
26 indicated that you made bad choices while as a youngster
27 and it shouldn't be cause him to spend an excessive

1. amount of time or die in prison. He's done 25 years.
2. Did you let them know the problems that you've been doing
3. in the institution?

4. INMATE MORRISON: My mom know, yes.

5. PRESIDING COMMISSIONER BIGGERS: She know?

6. INMATE MORRISON: Yes.

7. PRESIDING COMMISSIONER BIGGERS: Okay. What does
8. she think about that?

9. INMATE MORRISON: She thinking I need to straighten
10. it up.

11. PRESIDING COMMISSIONER BIGGERS: Yeah, because if
12. you don't, you know, you won't get a date.

13. INMATE MORRISON: Yeah.

14. PRESIDING COMMISSIONER BIGGERS: Okay. This is --
15. who is David Wright (phonetic)?

16. INMATE MORRISON: That's my nephew.

17. PRESIDING COMMISSIONER BIGGERS: Nephew. It says,
18. "I'm writing to speak on behalf of my uncle. I believe
19. that he did not believe to be punished for this much
20. time. Personally, I've never had the chance to meet him.
21. I'd deeply appreciate if you'd give my uncle parole. I'm
22. a 15 year-old boy who is doing research on my family tree
23. and needs to talk to you. Let him go on parole." And
24. that letter was dated March 18th, 2006. And this next
25. one is from Tammy Johnson (phonetic). There is no date
26. on it, but Ms. Johnson says, "I am the sister of Anthony
27. Morrison pleading with you and God regarding my brother

1 who spent the last 23 years in prison. He has come
2 before the Board many years regarding his release and has
3 been continually denied." Talk about you have lost two
4 sisters, one to a car accident and one to sickle cell?

5 **INMATE MORRISON:** Yes.

6 **PRESIDING COMMISSIONER BIGGERS:** And your father has
7 passed away from a major heart attack. And that -- that
8 you are no longer -- "my brother has no longer a number
9 that is across his chest. Justice can no longer be
10 served with his continued imprisonment. He's not a
11 threat to society and he's a brother, nephew, son." And
12 then she goes onto say that, "and to keep you in prison
13 is cruel." And wants us to show some mercy. You --
14 she's raising your niece, nephew and great niece because
15 the sister passed away and we need you there. Say you
16 continued your education and work in trying to remain
17 positive, even though he's been in prison almost 25
18 years. There's a letter dated November 3rd, 2005, from
19 your mother, and she says to us you're only a number but
20 to her you're her beloved son, my baby boy. 'He's been
21 in prison for over 25 years. I really don't know my son
22 as I would like to know him. He was taken away in his
23 teens. We never had the time together. We never watched
24 a movie together, played ball, etcetera. He never played
25 basketball but he loved, never sat down to dinner." And
26 she talks about the losses of your sisters. She said
27 she'd love to have her son here, that you lost your dad,

1 and that there's never any justice -- if there be any --
2 I can't spell this word. I know that it's praise and
3 things on things but something in there. It's either E-
4 I-E-I-T-U-R-E, anyway. "He has a home with me always. I
5 have four bedrooms." February the 1st, 2006, from
6 Kykesha, K-Y-K-E-S-H-A.

7 **INMATE MORRISON:** Kykesha.

8 **PRESIDING COMMISSIONER BIGGERS:** Jones. What's
9 that, sir?

10 **INMATE MORRISON:** Kykesha.

11 **PRESIDING COMMISSIONER BIGGERS:** Kykesha?

12 **INMATE MORRISON:** Yes.

13 **PRESIDING COMMISSIONER BIGGERS:** And this is your
14 niece?

15 **INMATE MORRISON:** Yes.

16 **PRESIDING COMMISSIONER BIGGERS:** And she says she
17 truly believes if my uncle was guilty that even him
18 deserve a second stab at life because you only have one
19 to live. It says he hasn't seen freedom in 20 years.
20 Okay. I believe that's the last one. Do you have any
21 others, sir?

22 **INMATE MORRISON:** No.

23 **PRESIDING COMMISSIONER BIGGERS:** Okay. We send out
24 3042 responses, and again as I said earlier I do have a
25 letter from the victims that was sent through the office
26 of the District Attorney. We have a District Attorney
27 here from San Bernardino County who will be speaking at a

1 later time. At this point I'm going to ask the District
2 Attorney if she has any questions for the inmate.

3 DEPUTY DISTRICT ATTORNEY DAWSON: Yes, I do. You
4 first denied --

5 PRESIDING COMMISSIONER BIGGERS: Go through the
6 Chair, please.

7 DEPUTY DISTRICT ATTORNEY DAWSON: I'm sorry. Sir, I
8 would like to find out after the oral copulation the
9 victim claims that you robbed her as well. Do you admit
10 or deny that? Is that true?

11 PRESIDING COMMISSIONER BIGGERS: And you address --
12 she'll ask the question through us, and you can address
13 us.

14 INMATE MORRISON: Yes.

15 PRESIDING COMMISSIONER BIGGERS: All right.

16 INMATE MORRISON: No, I didn't rob, no.

17 DEPUTY DISTRICT ATTORNEY DAWSON: You admit that you
18 had the gun. Did you ever strike the victim, the female
19 victim with the gun?

20 INMATE MORRISON: No, ma'am.

21 PRESIDING COMMISSIONER BIGGERS: To the Chair and
22 not directly to her.

23 INMATE MORRISON: Sorry, excuse me.

24 PRESIDING COMMISSIONER BIGGERS: No problem.

25 DEPUTY DISTRICT ATTORNEY DAWSON: So if I understand
26 correctly you admit that you and the other three people
27 picked these people to rob, that you forced the female

1 victim to orally copulate you on the way to the field,
2 but as soon as the car got to the field, did you leave?

3 PRESIDING COMMISSIONER BIGGERS: Okay. You want us
4 to ask him the question?

5 DEPUTY DISTRICT ATTORNEY DAWSON: Yes.

6 PRESIDING COMMISSIONER BIGGERS: That she that --
7 let me see if I can paraphrase it. That you want us to
8 believe that you had a gun, you forced the victim into
9 the car, and that you had her oral copulate while in the
10 car?

11 DEPUTY DISTRICT ATTORNEY DAWSON: That all took
12 place -- did that all take place before they arrived at
13 the field?

14 PRESIDING COMMISSIONER BIGGERS: Did all this take
15 place prior to arriving at that time field?

16 INMATE MORRISON: Yes.

17 PRESIDING COMMISSIONER BIGGERS: Yes.

18 DEPUTY DISTRICT ATTORNEY DAWSON: Once everybody was
19 at the field, did the inmate leave before other people
20 got out of the vehicle? How did that go down?

21 PRESIDING COMMISSIONER BIGGERS: Go ahead answer
22 that.

23 INMATE MORRISON: I left when we got to the field.
24 As far as anybody getting out of the car, I wasn't aware
25 of who was doing what. I just left after we got to the
26 fields.

27 DEPUTY DISTRICT ATTORNEY DAWSON: Okay. Nothing

1 further.

2 PRESIDING COMMISSIONER BIGGERS: When you left, who
3 was in the car with you when you left?

4 INMATE MORRISON: I left on feet.

5 PRESIDING COMMISSIONER BIGGERS: Oh, feet?

6 INMATE MORRISON: Yeah. I don't know who was in the
7 car. I left on feet.

8 PRESIDING COMMISSIONER BIGGERS: Okay. All right.

9 I'm going to ask your attorney now, Ms. Christensen, do
10 you have any questions for your client?

11 ATTORNEY CHRISTENSEN: I do. What college classes
12 did you say that you signed up for?

13 INMATE MORRISON: I signed up for -- I wanted to
14 take a class in mortician that is coming from the street.
15 I'm waiting for that to come back, do mortician for dead
16 people.

17 ATTORNEY CHRISTENSEN: Oh, can you do that by
18 correspondence?

19 INMATE MORRISON: Yes, I can.

20 ATTORNEY CHRISTENSEN: How long a program is that?

21 INMATE MORRISON: Two and a half years.

22 ATTORNEY CHRISTENSEN: Okay.

23 INMATE MORRISON: Mortician, two and a half years.

24 ATTORNEY CHRISTENSEN: Yeah?

25 INMATE MORRISON: Yeah.

26 ATTORNEY CHRISTENSEN: And do you think that's what
27 you would prefer over --

1 INMATE MORRISON: No, I rather weld, but I mean, I
2 know somebody who is that field and they make good money.

3 ATTORNEY CHRISTENSEN: Okay. How are you different
4 today, I think you're what about 42?

5 INMATE MORRISON: 42, exactly.

6 ATTORNEY CHRISTENSEN: 42, okay. You were 17 when
7 this crime happened, and all these years have passed, how
8 are you different today?

9 INMATE MORRISON: Well, for one I'm a Christian now,
10 and I don't think like I used to think. I don't think --
11 crime is not an option for me, so I don't think like I
12 used to think.

13 ATTORNEY CHRISTENSEN: When did this change occur?

14 INMATE MORRISON: Well, it started occurring five
15 years ago, but as we know, every time when you're trying
16 to change it takes time to get into that mode of doing
17 what you're supposed to do is right. You're not going to
18 change overnight, as far as Christianity go, you're not
19 going to change overnight, but it started five years ago.

20 ATTORNEY CHRISTENSEN: Okay. Thank you, Mr.
21 Morrison. No further questions.

22 PRESIDING COMMISSIONER BIGGERS: All right. At this
23 point I'm going to ask the District Attorney to close,
24 please.

25 DEPUTY DISTRICT ATTORNEY DAWSON: Yes. I think the
26 victim's letter when she talks about what she went
27 through at the hands of this man, how he was an active

1 participant, how he was there, how he was the first one
2 to beat her with the -- in the reports, the first one to
3 beat her with the weapon, the first one to force her to
4 orally copulate, and proceeded to continue to assault her
5 while she was being assaulted by the other people. He is
6 behavior in prison, except for the last couple of years
7 has been, as pointed out, rocky and terrible at times.
8 He's an extreme danger. He is still young enough -- as
9 the victim points out, young enough to be a danger to
10 anyone on the streets. I understand, you know, he's
11 found God in the last year, he's cleaning up his act, but
12 let's also look back that I wasn't there, I wasn't there,
13 I wasn't there. And now, oh, I was there, but I couldn't
14 tell you I was there because my father was alive. Now,
15 I'm there, but I'm going to minimize everything I did
16 because I left before the really bad stuff started
17 happening. That is just, as the doctor said, that he --
18 again, this doctor finds that this person has -- he now
19 accepts responsibility for his role. That is a limited
20 acceptance at best. As the victim pointed out, strongly
21 opposed to this person getting a parole date. He's just
22 a danger.

23 **PRESIDING COMMISSIONER BIGGERS:** Okay. Thank you,
24 ma'am. Ms. Christensen.

25 **ATTORNEY CHRISTENSEN:** Many inmates do have problems
26 fully accepting responsibility for the crime. They'll
27 come in here and for many years they will deny it in its

1 totality. Then sometimes over a period of time you'll
2 see a metamorphosis take place, where slowly the inmate
3 over a period of time begins to think about it, is
4 involved in self-help, has different religious
5 experiences, whatever, but things happen within the
6 inmate to cause maturity and a change in the thought
7 process, and they will gradually begin to look at
8 themselves and look at their behavior and admit certain
9 things. The fact that he couldn't admit the crime
10 because his father was alive, out of respect for his
11 father, I can certainly understand where he would think
12 that at that time. But the fact now today that he has
13 admitted it and he does admit certain things that he has
14 not admitted before is not to be held against him, it's
15 to be encouraged. It's a process where it can take a
16 very long time for the inmate to fully come to grips with
17 what he has done. Now, there is definitely a change in
18 Mr. Morrison. He was only 17 years old when this
19 happened, and at the time he had only achieved an
20 educational level of up to the ninth grade out on the
21 street. Since coming to prison, I believe that all of
22 his period of incarceration has been very good and
23 positive, in that he has achieved a GED, he's signing up
24 to advance his education. Prior to prison, he didn't
25 have any job skills. Now, he has a welding certificate.
26 He has completed that vocation, and he also has work
27 history as well in the culinary and as a Porter. And

1 most notably, too, are the two laudatory chronos that he
2 has for saving inmate's lives, not once but twice. He's
3 been in a position where he was actually able to alert
4 the guards to what was going on, and I don't come across
5 that very often, so he does the right thing in emergency
6 situations. He's been very serious about his
7 programming, and this is something that has really turned
8 him around. I also believe that his recent religious
9 experience also quite beneficial to him as well, but it's
10 not really all that recent because he's participated in
11 the Chapel program for about five years. His parole
12 plans are good. His family loves him. He will live with
13 his mom in Los Angeles. He has those marketable skills
14 for welding. LA County is a huge county, all kinds of
15 work available for him. So there's no reason to think
16 that he could not be successful in parole. I think that
17 he has learned from all the disciplinaries and the effect
18 that that has had, that that is not a good thing, it's
19 not positive. And over the last couple of years, about
20 two and a half years now, he has been disciplinary free.
21 So this is someone who has improved in their judgment and
22 has improved in their thinking. He's changed. He has
23 matured. He's always been very remorseful for the
24 victim. He himself knows what it feels like to be the
25 victim of a sexual assault, and I don't think that he
26 wants to inflict anymore pain on anyone else. His family
27 is there to support him, and I think that what he has

1 accomplished here in prison would serve him well in being
2 able to comply with the rules and regulations on parole.

3 And he's asking for a chance today to show you that he
4 can achieve that goal of being a success and a productive
5 law-abiding member of society.

6 PRESIDING COMMISSIONER BIGGERS: Thank you, ma'am.

7 Mr. Morrison, you now have the opportunity to tell this
8 Panel why you believe you're suitable for parole.

9 INMATE MORRISON: Well, first thing I want to say is
10 if I had my choice I would want to apologize to the
11 victim because that should of never had happened.
12 However, I'm here to man up today, hold up my
13 responsibility, you know, I would never -- was never
14 trying to undermine the system. The only thing I wanted
15 to do was let be known what I did and didn't do. I came
16 -- like I said, I don't blame my crime mates for me being
17 here no more. I was blaming them saying that they
18 influenced me. Well, I had an opportunity to say no and
19 go my own way, and I didn't, so I don't blame them. So
20 I'm standing up for what I have done today, and I did
21 last Board. My statement won't change on what happened
22 because that's what happened, as far as my part in the
23 crime. I have got my GED now. I got my welding trade
24 now. I got stability in my life now, and I just want to
25 go forward. I want to go forward. I need a chance to
26 show the Board and society that I am not a threat to
27 society and I can make it in society. I don't have

1 anything else to say.

2 PRESIDING COMMISSIONER BIGGERS: All right. Thank
3 you. There is a letter that we received from the victim,
4 Ms. Lisa Goble Bostrand, B-O-S-T-R-A-N-D, I believe
5 that's her married name. And this letter is dated July
6 the 29th, 2006. It says:

7 To the Parole Board considering the release of
8 Anthony Morrison. As one of Anthony
9 Morrison's victims, I have been informed by
10 the District Attorney's office that I may
11 submit a statement to be considered at his
12 parole hearing. My wish is that if Anthony
13 Morrison would not be made to serve his entire
14 100-year sentence that he at least will be
15 kept in prison until he is no longer
16 physically capable of hurting anyone. As a 16
17 year-old Anthony Morrison used a gun to kidnap
18 my boyfriend and me. He committed the first
19 sexual offense against me while we were still
20 in the car and continued to assault me even as
21 I was being raped and sodomized by the others.
22 He was not the most sadistic of my four
23 attackers, but he ran a close second, laughing
24 and taking immense pleasure from my pain and
25 terror, and he was 16. I cannot imagine that
26 25 years in prison could or would have
27 softened or changed a cruel and twisted

1 personality. As a man in his early 40s, he is
2 still physically capable of inflicting great
3 harm on some other innocent young person.

4 Please do not allow that possibility by
5 releasing him at this time. It has not been
6 easy to keep the danger Anthony Morrison
7 inflicted on me from interfering with my life.

8 Therapists have said I can expect to have to
9 deal with flashbacks and emotional setbacks as
10 long as I live. Even after this much time,
11 there is still triggers that will toss me back
12 into the San Bernardino fields, and I
13 experience again the fear, pain, loathing and
14 despair that I felt then at the hands of
15 Anthony Morrison and his cohorts. It took a
16 dozen years before I stopped shaking
17 uncontrollably and getting sick to my stomach
18 when I unexpectedly came upon the sight of
19 Christmas lights on someone's house.

20 Receiving the DA's notification and drafting
21 this letter has reopened the trauma. It has
22 robbed me of sleep with the return of old
23 nightmares, yet I could not let this hearing
24 go unremarked upon. It is not right that if
25 by my silence some other young girl could be
26 condemned to the suffering I have endured in
27 Anthony Morrison's warped pleasure.

1 Therefore, I ask again, and for the final
2 time, please do not release Anthony Morrison
3 from prison until is of such age that he would
4 be physically impossible for him to hurt
5 anyone else. Thank you for your time and
6 consideration.

7 That's Lisa Goble Bostrand. Okay. At that point we
8 will now go into deliberations.

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1 CALIFORNIA BOARD OF PAROLE HEARINGS

2 D E C I S I O N

3 DEPUTY COMMISSIONER MORRIS: We're on record.

4 PRESIDING COMMISSIONER BIGGERS: Let the record show
5 that everyone who was in the room prior to us going into
6 deliberations is now back in the room. In the matter of
7 Mr. Anthony Morrison, M-O-R-R-I-S-O-N, the Panel has --
8 CDC number C-60307. The Panel has reviewed all the
9 information received from the public and relied on the
10 following circumstances in concluding that the prisoner
11 is not suitable for parole and would pose an unreasonable
12 risk of danger to society or a threat to public safety if
13 released from prison. The Panel looked at all the
14 offenses, Mr. Morrison, and we determined that those
15 offenses were all carried out in a calculated, cold,
16 cruel and callous manner, in that you and your
17 codefendants planned a robbery, went to the service
18 station where you came across Mr. Ronald Chappell, C-H-A-
19 P-P-E-L-L, and Lisa Goble, G-O-B-L-E. You kidnapped
20 them, and at that point Ms. Goble was repeatedly raped,
21 sodomized, and made to orally copulate not only you but
22 your crime partners as well. The victim was abused by
23 having to do all of this stuff, and it was done by
24 gunpoint. The offenses -- all of the offenses were
25 carried out in a manner which demonstrates an
26 exceptionally callous disregard for human suffering. Can

1 you imagine how that woman is traumatized at this point.
2 And I read in the file somewhere where she is having a
3 difficult time now even associating and being around
4 individuals that are of African American descent because
5 of what you and your codefendants did. The motive for
6 the crime was very trivial, in that you intended to rob
7 them, and then you kidnapped them, and took them out --
8 took her out to a field by gun, even threatened to kill
9 them if she did not comply with the things that you all
10 wanted her to do. She was pistol whipped. One of your
11 crime partners indicated let's blow this bitch's head
12 off. There was a threat that even further created human
13 suffering for her. As I said earlier, the crime -- the
14 motive for the crime was very trivial. You wanted to rob
15 them for money, you and your codefendants, and all this
16 other stuff took place is just beyond me. This
17 information was taken from the probation officer's
18 report. The Panel also noted that you had a petty theft
19 charge as well as a -- you were arrested for petty theft,
20 and you also had two counts of indecent exposure, and
21 also that you were a minor at the time of this instant
22 offense. You were 17 years of age. Your programming,
23 sir, to be honest with you, has been a disaster prior to
24 the last few years. You were a management problem for 20
25 years in this institution. You had 21 counseling
26 chronos, with the last one being in '94, but you had 17
27 ANTHONY MORRISON C-60307 DECISION PAGE 2 8/9/06

1 115s. Of those 17 115s, the last one was in 2004. But
2 since -- within the last five years you've had five 115s,
3 primarily for either stealing food or manufacturing
4 Pruno. And when you're stealing food like onions, it's
5 one of those -- you're still trying to make Pruno. It's
6 amazing to me that it took 20 years for the light to come
7 on, and we'll talk about that a little bit later on. You
8 do have a GED, but you have not done anything past that
9 GED to help you to beef up your educational -- help you
10 educationally. You have one vocation, which is welding,
11 and that is good, but you also should have, you know,
12 you've been in long enough where you try to get something
13 else vocationally. You made a statement that you didn't
14 want anything else, that's what you wanted to do. Well,
15 that's all well and good, but if you can't get a job
16 welding, it's always a good idea to have something to
17 fall back on. So I encourage you, sir, to look at
18 something else besides your welding so that you can have
19 at least two vocations when you leave here. We also
20 noticed that you, and we haven't been able to verify
21 that, that you have -- did complete a 26-week course in
22 NA and AA, and that was '96. We don't see much after
23 that fact. You haven't done very much in the way of
24 self-help, other than going to the Protestant Chapel
25 incident that happened five years ago. And I understand
26 that you've been in lock up, but you can read. You can

1 read, and if you're in lock up, then get books and come
2 in -- when you come back for your hearing, bring in
3 reports of things that you've read. Just don't sit in
4 there just because you're locked up and look at the wall
5 or look at television, read books and come to find out
6 what made you do what you had to do -- what you did to
7 this lady. The psychological report from Dr. Macomber
8 that was dated July 20th, '06, was favorable, in that he
9 said the prognosis at this point in time for successful
10 adjustment in the community appears to be good. Your
11 parole plans, you do have viable residential plans, but
12 you need to get some employment plans. You're young
13 enough that you need to get some -- have a job or
14 something waiting for you. When I asked you about the
15 job that you had here with your sister, you sort of
16 smiled and said, you know, my sister, she's my sister so
17 she's going to give me a job to work. That's fine, but
18 the problem is you don't know anything about real estate.
19 Now, if she'd own a welding shop or something about
20 welding, that would of been a little bit different, but
21 for anyone to write a job and say they're going to give
22 you a job, this Panel, or any Panel, would like to know
23 what the job is, what are your qualifications, how much
24 are you going to make. So even though -- are they going
25 to pay you or not, or are they letting you just stay there
26 and just work to pay your room and board. We also want
27 ANTHONY MORRISON C-60307 DECISION PAGE 4 8/9/06

1 to know that as well. You do have a marketable skill,
2 that you are a welder. 3042 responses, we note the
3 District Attorney of San Bernardino County indicated an
4 opposition of finding of parole suitability as well as
5 the victim in her letter indicated that she felt that you
6 should not be paroled. The other thing I wanted to point
7 out for you, sir, is that perhaps the lights have gone
8 on. Hopefully, they have because maybe you're realizing
9 that the effects of those many years of serious
10 disciplinary reports in the past, that's five very
11 serious reports in the last five years, maybe you have
12 come to understand how that stuff has hurt you and that -
13 - and the other part of that whereas you were not taking
14 full responsibility for the crime in addition to that.

15 Now, you say you've come clean. This may be a new start
16 for you, but man, you waited 20 years, 20 years before
17 the light went on to get started. That's an awful long
18 time to waste. I would also encourage you when you're
19 getting letters from your family -- you say you're
20 telling your mother all the stuff that you've done since
21 you've been in here, but you need to let her know -- let
22 other relatives know so when they write support letters
23 for you they don't criticize the system. They should
24 criticize the person who is in here who is doing all the
25 stuff who is making it a management problem for the
26 system. The system is not making you do the 115s, you
27 ANTHONY MORRISON C-60307 DECISION PAGE 5 8/9/06

1 are doing the 115s. And what you're doing by not letting
2 the other families members know is that you're telling
3 them we're misusing you in here. And you can smile, but
4 that's what's happening because every letter I read today
5 was all, you know, he served his time. He's doing this -
6 - he's doing good stuff, and they never mentioned the bad
7 crap you're doing.

8 **INMATE MORRISON:** Uh-huh.

9 **PRESIDING COMMISSIONER BIGGERS:** So you need to let
10 them know as well, until I clean up my act I'm not going
11 to get out of the here. The Panel also notes that your
12 gains are recent, and you must demonstrate an ability to
13 maintain these gains over an extended period of time.
14 Nevertheless, we want to commend you for your laudatory
15 chronos and for helping those two inmates that you did,
16 for your work in the culinary, and for getting your GED,
17 and also for your work in the Protestant Chapel.
18 However, these positive aspects of your behavior do not
19 outweigh the factors of unsuitability. In a separate
20 decision, the Hearing Panel finds that it's not
21 reasonable to expect that parole would be granted at a
22 hearing in the following two years. Specifically, the
23 crime itself that you and your cohorts committed on a 16
24 year-old girl and her boyfriend and forced her to do
25 numerous things, such as orally copulating, sodomizing
26 and raping her. The offense was calculated. There were
27 **ANTHONY MORRISON C-60307 DECISION PAGE 6 8/9/06**

1 multiple victims. Her boyfriend was also a victim. You
2 took her -- took them both to a field, held her at
3 gunpoint, and on the way out there you had her --

4 (Off the Record)

5 **DEPUTY COMMISSIONER MORRIS:** Back on record.

6 **PRESIDING COMMISSIONER BIGGERS:** All right. The
7 offense was carried out in a manner which demonstrates
8 exceptionally callous disregard for human suffering. The
9 torture that you all put those people through, especially
10 that young lady where four of you committing those acts
11 on an innocent 16 year-old girl who was there with her
12 friend just to buy some gas. And the traumatic
13 experience that you put him under to watch all that stuff
14 or be in the vicinity and couldn't do anything about it,
15 and then you just -- you all just left them there. The
16 motive for the crime was inexplicable or just trivial, in
17 that it was a robbery and you all calculated -- was
18 planned to rob somebody, and they just happened to be the
19 first people there. My cohort and I talked about it. If
20 he could of given you five years, he would of done so
21 because you've had five -- 20 something -- well, 20 years
22 where you haven't programmed. You haven't done anything
23 until the last five years. I'm going to ask him if he
24 has any comments. Deputy Commissioner, do you have any
25 comments?

26 **DEPUTY COMMISSIONER MORRIS:** Just in closing, Mr.

27 **ANTHONY MORRISON C-60307 DECISION PAGE 7 8/9/06**

1 Morrison, it seems to me like you spend a lot of time,
2 and I don't intend to insult you, but it seems like to me
3 that you tried to be an institution thug, gunsell about 20
4 years. It seems to me that within the last couple years
5 or so the light has come on and you're trying, at least
6 you're saying some things differently. Maybe it's
7 because your father has now died that you can be honest
8 and forthright about what happened. Maybe as a part of
9 that honesty you can also start to assess some of the
10 causative factors for your involvement in this life
11 crime. My sense is that you're on your way, but you just
12 started. You just started in --

13 PRESIDING COMMISSIONER BIGGERS: 2001.

14 DEPUTY COMMISSIONER MORRIS: 2001 is when you
15 started having some clean time. So in my mind you've got
16 some work to do. You've got some work to do. I think
17 just turning 40 you're beginning to realize that prison
18 is more than just doing AM and PM, and if you ever expect
19 to get a parole date, you are going to bring to this
20 table more than just time. That's all.

21 //

22 //

23 //

24 //

25 //

26 //

27 ANTHONY MORRISON C-60307 DECISION PAGE 8 8/9/06

1 PRESIDING COMMISSIONER BIGGERS: Okay. The Panel is
2 going to recommend that you remain disciplinary free --
3 become and remain disciplinary free, upgrade yourself
4 vocationally as well as educationally, participate in
5 self-help. And sir, I wish you well. The time is now
6 4:25. That concludes the hearing. Good luck to you,
7 sir.

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23 PAROLE DENIED TWO YEARS

DEC 07 2006

24 THIS DECISION WILL BE FINAL ON: _____

25 YOU WILL BE PROMPTLY NOTIFIED IF, PRIOR TO THAT
26 DATE, THE DECISION IS MODIFIED.

27 ANTHONY MORRISON C-60307 DECISION PAGE 9 8/9/06

CERTIFICATE AND
DECLARATION OF TRANSCRIBER

I, STACY WEGNER, a duly designated transcriber, VINE, MCKINNON & HALL, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 - 77, and which recording was duly recorded at

CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of ANTHONY MORRISON, CDC No. C-60307, on AUGUST 9, 2006, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-mentioned matter and have no interest in the outcome of the hearing.

Dated November 8, 2006, at Sacramento County, California.

Stacy Wegner

STACY WEGNER
Transcriber
VINE, MCKINNON & HALL

COPY

EXHIBIT "B"

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN BERNARDINO

SAN BERNARDINO CIVIL DIVISION
303 W 3RD STREET
SAN BERNARDINO, CA 92415

CASE NO: SWHSS700203

ANTHONY MORRISON
POB 689
CDC#C-60307
SOLEDAD CA 93960-0689

I M P O R T A N T C O R R E S P O N D E N C E

From the above entitled court, enclosed you will find:

COPY OF ORDER DENYING WRIT

CERTIFICATE OF SERVICE BY MAIL

I hereby declare that I am over the age of 18 years, a resident of San Bernardino County, State of California, and not a party to nor interested in the above-entitled case. I am a Deputy Court Executive Officer of the said County and on the date shown below I served the above named document by enclosing it in an envelope addressed to the interested party, for collection and mailing this date, following ordinary business practice.

Executed on 08/14/07 at San Bernardino, CA. By: THERESA HANDYSIDE

Theresa Handyside

M A I L I N G C O V E R S H E E T

COUNTY OF SAN BERNARDINO SUPERIOR COURT
STATE OF CALIFORNIA
MINUTE ORDER

CASE NO: SWHSS700203

DATE: 08/13/07

CASE TITLE: IN THE MATTER OF ANTHONY MORRISON

DEPT: S32 08/13/07 TIME: 8:30
Hearing Re: WRIT OF HABEAS CORPUS.

COMPLAINT TYPE: WHC

JUDGE JOHN P WADE presiding.

CLERK THERESA HANDYSIDE

Not reported

APPEARANCES:

No appearance.

PROCEEDINGS:

THE COURT HAS READ AND CONSIDERED THE PETITION FOR WRIT OF HABEAS CORPUS AND RULES AS FOLLOWS.

PETITION FOR WRIT OF HABEAS CORPUS of MORRISON Denied

PLEASE SEE WRITTEN RULING FOR ANY FINDINGS

Stage at Disposition: All other judgments before trial.

Case dispositioned by Judgment

Correspondence coversheet generated to mail COPY OF ORDER DENYING WRIT to counsel of record.

Notice given by Courtroom Clerk.

1 SUPERIOR COURT OF CALIFORNIA
2 COUNTY OF SAN BERNARDINO
3 Civil Division, Department S-32
4 303 West Third Street
5 San Bernardino, California 92415

FILED
SUPERIOR COURT
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

AUG 13 2007

6 BY Alma McDonald DEPUTY
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COPY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

In re the Petition of

ANTHONY MORRISON,

For Writ of Habeas Corpus.

Case No. WHCSS-00203

ORDER DENYING PETITION
FOR WRIT OF HABEAS CORPUS

The Petition of ANTHONY MORRISON for Writ of Habeas Corpus was filed in this Court on July 12, 2007.

Therein, Petitioner contends that the decision to deny him parole on August 9, 2006, was improper because:

- 1) It was without sufficient supporting evidence.
- 2) The denial of parole constitutes cruel and unusual punishment.
- 3) Petitioner has been treated differently from other convicts in a similar situation.
- 4) The Board did not consider evidence which supported Petitioner's eligibility for parole.
- 5) The denial decision was arbitrary and capricious.
- 6) Petitioner's counsel was ineffective.

1 In support of the Petition is attached a transcript of the August 6, 2006 hearing for
2 parole consideration. After review of that record the following is revealed:

3 1) The Board considered the circumstances of the commitment crime.

4 On Christmas Day in 1981, at about 10:14 in the morning, Petitioner, in concert with
5 three others, kidnapped at gunpoint, a man and a woman. The woman was repeatedly
6 raped, sodomized and otherwise sexually brutalized. She was pistol-whipped and
7 threatened with being killed.

8 Petitioner admitted kidnapping the woman and ordering her to orally copulate his
9 cohorts, but denies any other involvement in the crime. At an earlier hearing he
10 admitted sodomizing and forcing the woman to orally copulate him.

11 2) The Board considered his prior criminal history.

12 As a juvenile he had some history, was placed on probation and failed that
13 probation.

14 3) The Board considered Petitioner's social history.

15 4) The Board considered post-conviction factors.

16 Petitioner has obtained a GED. He completed a vocational class in welding.

17 He had serious disciplinary problems in prison until 2004, a period of 20 years.

18 5) The Board considered Petitioner's psychological reports.

19 One report stated that Petitioner's potential for dangerous behavior was below
20 average. The psychologist's prognosis for the Petitioner's successful adjustment in
21 the community was good.

22 6) The Board considered Petitioner's parole plans.

23 Petitioner admitted to having no employment plans at the time of the hearing.

24 From the evidence considered, the Board reached the following conclusions:

25 1) Petitioner would pose an unreasonable risk of danger to society or a threat to
26 public safety if released from prison.

27 After the court's review, we determined that there was ample evidence presented to
28 justify such a conclusion. The Petitioner presents as an incredibly callous person who

1 has traumatized an innocent woman and now does not believe he should receive the
2 consequences for such a violent and heinous crime.

3 There is no evidence that his attorney was ineffective.
4

5 The Petition is denied.
6

7 Dated this 13th day of August, 2007.
8

9
10 JOHN P. WADE

11 JOHN P. WADE
12 Judge of the Superior Court
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COPY

EXHIBIT "C"

SUBSEQUENT PAROLE CONSIDERATION HEARING
STATE OF CALIFORNIA
BOARD OF PRISON TERMS

In the matter of the Life
Term Parole Consideration
Hearing of:
ANTHONY MORRISON

CDC Number C-60307

COPY INMATE

CORRECTIONAL TRAINING FACILITY

SOLEDAD, CALIFORNIA

AUGUST 2, 2004

PANEL PRESENT:

BOOKER WELCH, Presiding Commissioner
JOHN WEAVER, Deputy Commissioner

OTHERS PRESENT:

ANTHONY MORRISON, Inmate
DAVID SPOWART, Attorney for Inmate
JON FERGUSON, Deputy District Attorney,
Via Videoconference

CORRECTIONS TO THE DECISION HAVE BEEN MADE

_____ No See Review of Hearing
_____ Yes Transcript Memorandum

Debra M. Aubert, Capitol Electronic Reporting

INDEX

	<u>Page</u>
Proceedings.....	1
Case Factors	12
Pre-Commitment Factors	21
Post-Commitment Factors.....	28
Parole Plans	44
Closing Statements.....	58
Recess	72
Decision.....	73
Adjournment	83
Transcriber Certification.....	84

--oo--

1 PRESIDING COMMISSIONER WELCH: Okay. What
2 were your participation at?

3 INMATE MORRISON: As far as --

4 PRESIDING COMMISSIONER WELCH: The crime
5 that occurred.

6 INMATE MORRISON: I kidnapped her, and she
7 sodomized (inaudible) oral copulation.

8 PRESIDING COMMISSIONER WELCH: You had her
9 -- She orally copulated you?

10 INMATE MORRISON: Right, exactly.

11 PRESIDING COMMISSIONER WELCH: And you
12 sodomized her?

13 INMATE MORRISON: No, I did not.

14 PRESIDING COMMISSIONER WELCH: Okay. Why
15 did you kidnap her?

16 INMATE MORRISON: No reason why. No reason
17 why.

18 PRESIDING COMMISSIONER WELCH: Let me tell
19 you what the investigation said, since you
20 requested it. It says:

21 "This investigation was initiated on
22 January 2, 2002 pursuant to a
23 request from a Board of Prison Term
24 BPT Panel comprised of Booker Welch
25 and Deputy Commissioner Pam Ziegler.
26 The subject of the investigation is
27 Anthony Morrison, who was a prisoner

CERTIFICATE AND

DECLARATION OF TRANSCRIBER

I, DEBRA M. AUBERT, a duly designated transcriber, CAPITOL ELECTRONIC REPORTING, do hereby declare and certify under penalty of perjury that I have transcribed tape(s) which total one in number and cover a total of pages numbered 1 through 83, and which recording was duly recorded at CORRECTIONAL TRAINING FACILITY, at SOLEDAD, CALIFORNIA, in the matter of the SUBSEQUENT PAROLE CONSIDERATION HEARING of ANTHONY MORRISON, CDC No. C-60307, on AUGUST 2, 2004, and that the foregoing pages constitute a true, complete, and accurate transcription of the aforementioned tape(s) to the best of my ability.

I hereby certify that I am a disinterested party in the above-captioned matter and have no interest in the outcome of the hearing.

Dated August 21, 2004 at Sacramento County, California.

Debra M. Aubert
Transcriber
CAPITOL ELECTRONIC REPORTING

**PROOF OF SERVICE BY MAIL
BY PERSON IN STATE CUSTODY
(C.C.P. SS 1013(A), 2015,5)**

I, Anthony Morrison, declare:

I am over 18 years of age and I am party to this action. I am a resident of CORRECTIONAL TRAINING FACILITY prison, in the County of Monterrey, State of California. My prison address is:

Anthony Morrion , CDCR #: C-60307
CORRECTIONAL TRAINING FACILITY
P.O. BOX 689, CELL #: (YW-120-Up)
SOLEDAD, CA 93960-0689.

On _____, I served the attached:

PETITION FOR WRIT OF HABEAS CORPUS AND ATTACHED EXHIBITS.

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope (verified by prison staff), with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named institution in which I am presently confined. The envelope was addressed as follows:

SUPREME COURT OF CALIFORNIA
350 McAllister, Street.
San Francisco, California.
Zip. 94102-4797

ATTORNEY GENERAL OFFICE
P. O. Box 85266
San Diego, California.
Zip. 92186-5266

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 18, 2007

Anthony Morrison
Anthony Morrison
Déclarant

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States on September 1, 1974, is required for the use of the Clerk of Court for the purpose of maintaining a civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

CIVIL COVER SHEET

I (a) PLAINTIFFS

Anthony Morrison

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **Monterey**
(EXCEPT IN U.S. PLAINTIFF CASES)

FILING OR PAID DEFENDANT Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		IF MOTION FILED Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
COPIES SENT TO COURT <input type="checkbox"/> PERSON <input checked="" type="checkbox"/> NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND			
DENSITY OF FIRST LISTED DEFENDANT (EXCEPT IN U.S. PLAINTIFF CASES ONLY)			
CLERK, U.S. DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA DEPUTY			

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anthony Morrison
PO Box 689
Soledad, CA 93960
C-60307

ATTORNEYS (IF KNOWN)

'08 CV 0999 WQH JMA

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party).
 2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)
(For Diversity Cases Only)

Citizen of This State	PT <input type="checkbox"/> DEF <input type="checkbox"/>	Incorporated or Principal Place of Business in This State	PT <input type="checkbox"/> DEF <input type="checkbox"/>
Citizen of Another State	PT <input type="checkbox"/> DEF <input type="checkbox"/>	Incorporated and Principal Place of Business in Another State	PT <input type="checkbox"/> DEF <input type="checkbox"/>
Citizen or Subject of a Foreign Country	PT <input type="checkbox"/> DEF <input type="checkbox"/>	Foreign Nation	PT <input type="checkbox"/> DEF <input type="checkbox"/>

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reappointment
<input type="checkbox"/> Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	PROPERTY RIGHTS	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	PERSONAL PROPERTY	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 810 Selective Service	
<input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 850 Securities/Commodities Exchange	
<input type="checkbox"/> 160 Stockholders Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 875 Customer Challenge 12 USC	
<input type="checkbox"/> Other Contract	<input type="checkbox"/> 360 Other Personal Injury	LABOR	<input type="checkbox"/> 891 Agricultural Acts	
<input type="checkbox"/> 195 Contract Product Liability	REAL PROPERTY	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus	<input type="checkbox"/> 892 Economic Stabilization Act	
CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 530 General	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 894 Energy Allocation Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
<input type="checkbox"/> 240 Tort to Land	<input type="checkbox"/> 444 Welfare	FEDERAL TAX SUITS	<input type="checkbox"/> 950 Constitutionality of State	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 890 Other Statutory Actions	
<input type="checkbox"/> 240 All Other Real Property		<input type="checkbox"/> 790 Other Labor Litigation		
		<input type="checkbox"/> 791 Empl. Ret. Inc.		
		<input type="checkbox"/> Security Act		
		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)		
		<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609		

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

1 Original Proceeding 2 Removal from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from another district (specify) 6 Multidistrict Litigation 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 6/4/2008

SIGNATURE OF ATTORNEY OF RECORD

